OUR GOVERNMENT

HOW IT GREW, WHAT IT DOES, AND HOW IT DOES IT

BY

JESSE MACY, A.M.

PROFESSOR OF HISTORY AND POLITICAL SCIENCE IN IOWA COLLEGE

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PREFACE.

A CHILD who has been well instructed in geography knows already something about a school district and other local governments around him; he has some knowledge of the state and of the United States. This book is designed to extend the knowledge of all these institutions and teach something of their relations to each other.

The civil institutions of our entire system are so related that no one of them can be thoroughly understood without a knowledge of all. The institutions directly affecting the citizen in his ordinary civil relations are those chiefly of the state and the local governments within it. Many useful lessons in civil government may be learned from the state alone; yet the action of the state is in some cases conditioned upon the action of the general government. On the other hand, to limit instruction in civil government to the Constitution of the United States presents more serious difficulties. The Constitution assumes the existence of the states and provides for a supplementary government. It cannot be rightly understood without a knowledge of the

states. To attempt to teach the federal Constitution without this knowledge results naturally in the teaching of error.

The order of topics here presented is such that the institutions nearest, and naturally most familiar, shall receive special attention first. In this part of the work a direct study of the actual institutions of the locality is intended. The different states and different parts of the same state furnish a variety of agencies. It is from the direct observation and study of actual governmental institutions that a real knowledge is derived. Books are useful as they stimulate and guide observation and assist in interpretation. In a review of the book it may be well to reverse the order, and present first the relation of the federal government to the topic under discussion, using the Constitution of the United States and the state constitution as texts for study.

The "suggestions" appended to some of the chapters are to be regarded as suggestions merely. The actual experience of teachers will be the best guide as to the most profitable lines for further inquiry.

J. MACY.

GRINNELL, IOWA,
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PART I.

HISTORICAL AND INTRODUCTORY.

CHAPTER I.

OUR EUROPEAN ANCESTORS.

Governmental Institutions. — The American citizen lives under not less than five institutions called governments. He is a member of a school district. He belongs to a civil township. He may be subject to a town or a city government. He is a part of a county government; and he is ruled over by a state and a federal government. Each of these governments performs separate, special work for the good of the people, and all are more or less closely connected with one another. Besides being under these various institutions, or governments, each person is, or has been, connected with a family. Of all the institutions with which we are acquainted the family is the oldest. Historians do not agree as to the exact process, but all admit that from the family have come the institutions of civil government.

Early Town Organization. — As to our own ancestors, the ancient Germans, the historians tell us how, in early times, little groups of families and kinsfolk clustered around a spring, or along a flowing stream.

Here they built their rude huts. They drank from the same water; they pastured their herds in a common field; they cut their wood from a common forest. At each returning season the heads of the families were wont to meet around a sacred tree, where each would draw by lot a strip of land from a common field. On this land each family would grow its crop for the year. There were frequent meetings around the sacred tree, at which various affairs of common interest to the community were settled. New members were admitted to the society; disorderly persons were expelled; fines were imposed; and difficulties between neighbors were adjusted.

The Tun-Scipe. — Around the group of houses in a German village there was arranged, for purposes of defence, a hedge, or a ditch, called a *tûn*. This with the surrounding country containing the fields and pastures of the towns-men is called the *tun-scipe* (*toon-skipa*), or township. Hence it appears that the oldest institution in our present system is the town or township. Let it not be supposed that the tun-scipe of our ancestors had the same sort of government as the modern American town or township. The two are very different. Of the work done by the township two thousand years ago a part is now performed by families or by individuals. Other duties formerly attended to by the primitive little township have been assumed by more general governments organized later.

The Hundred. — Two thousand years ago our English ancestors lived in old Sleswick, in Denmark. They were much occupied with wars. When they went forth to battle, the men from each village stood together

in the fight. The warriors from neighboring villages made up a company in the host. After a successful war the company would divide the spoils, arrange any matters of common interest to the associated villages, and return to their homes. This habit of uniting in war probably led to the formation of the larger and more general government, called the *hundred*. This was probably made up of the group of neighboring villages which furnished a hundred warriors to the host. The government of the hundred fills an important place in the history of our ancestors. To the court of the hundred came representatives from all the towns within its limits. Here were settled the more important cases of difficulty between citizens, and this court, it is believed, gradually assumed much of the business formerly attended to by the town-meeting.

The Saxon Conquest. — In the year 449 A.D. our German ancestors began to conquer England. For one hundred and fifty years they contended fiercely with the natives. The eastern part of the island became German or English, while the western part remained Celtic. They brought their institutions with them. There appeared on the banks of the Thames and the Humber the German town, with its common lands. There appeared also the district of the hundred, and the hundred court. During the long wars the leaders of the armies became permanent officers or kings.

Kings and Nobles. — At first, the kings had little power save as military officers. They however gradually assumed to themselves the administration of civil affairs. In very early times there appeared, also, chiefs or lords who gradually got possession of the village

lands. Thus the township became in many cases a lord's estate. Yet the people in the larger towns resisted their encroachments, and often contrived to retain much of their former liberty. The nobility built for themselves farm-houses, or "halls," in the country, which they fortified in a rude way with a palisade and a ditch. They also occasionally erected strongholds to be used in war.

The town or borough life in England came to be quite distinct from the country life. In the country the lords ruled, while in the boroughs many of the former customs of popular government remained. Aristocracy held sway in the country, where those who were not lords were a lord's friends or a lord's serfs. Some towns had walls of their own, within which the power of the lord was not so great. The town-meeting, in which the townsmen were wont to gather, and attend to their local affairs in the old way, continued.

The Shire. — At first England was divided into many little kingdoms, whose kings contended for supremacy. In course of time some of the petty kingdoms were overcome by the more powerful, and became parts of a larger kingdom. The kings, also, for purposes of government, divided the country into shares or *shires*. The court established in the shire was called the shire or county court. It was organized on the same general plan as the hundred court. To the county court came representatives from all the hundreds, boroughs, and townships of the shire. To the county court came also the knights, or country gentlemen of the shire. The court was presided over by an officer, called a *shire-reeve*, or *sheriff*, who was sometimes elected by the

shire, but more frequently appointed by the king. The county court attended to various kinds of business, such as the levying and collecting of taxes, and trying cases at law.

We have thus far seen how four governmental institutions grew up among the English people. First there was the association of families in the *tûn* and tun-scipe. Then, as the neighboring towns came to act together in war, and to have affairs of common interest, they formed the government of the *hundred*. Continued wars and violence gave rise to kings and lords. As petty kings were overcome by those more powerful, the little kingdoms became shires. Other shires were formed, and the entire kingdom was divided into shires, or counties.

The Parish. — When the Saxons came into England they were heathen. In course of time, missionaries from Rome established the Christian religion. The church was organized on the Roman model of church government, and was supported by taxation. It then attended to many things now belonging to the civil government. The church divided the country into parishes, having generally the same geographical boundaries as the township, though sometimes two townships made one parish. Gradually the term *parish* displaced in most cases the older term *township*.

The Norman Conquest. — In 1066 the Normans conquered England, and established more thoroughly the local government by lords, which prevailed in France under the name of the feudal system. The manor, or the lord's estate, was in many cases geographically the same as the township. The lord's court and the lord's government took the place in part of the older govern-

ment of township and hundred. The larger towns still retained much of their ancient freedom; while even in the smaller towns some of the forms of the older government remained.

Progress of Free Institutions. — Under the Normans liberty seemed to be crushed out of England. Lords and kings seemed to rule according to their own will. But the forms of the older and freer institutions of the township and the hundred were preserved in the towns and shires. These were of great advantage to the people in their struggle for liberty. The little town-meeting of our Saxon ancestors furnished the model for the free court of the hundred and the county. And, finally, out of these local, free, and representative governments there came the free Parliament of England.

Origin of Parliament. — From the first the English kings had associated with them great lords who assisted in governing the realm. This body was known at first as the *Witan* (wise men), and later as king's council. It was always the habit of the English people to use the local governments of town and county in the collection of taxes. The king's sheriff arranged with the knights of the shire in the county court for the payment of the king's taxes, due from the country people. The sheriff likewise arranged with the four good men who represented each borough in the county court, for the payment of the king's tax to be collected in the borough. Both the shire tax and the borough tax were voted by local representatives, and were collected by the officers of the shire and the borough. But, in 1265, Simon de Montfort, Earl of Leicester, having got King Henry III. in his power, summoned to his support a national coun-

cil, to which were called two representatives from each shire, and a like number from each borough. Thirty years afterward Edward I. adopted the same plan, and in this way the Parliament of England, as now organized, came into existence. In course of time, the knights or representatives from the shires and the burghers from the towns met together in a separate house, and the assembly came to be known as the House of Commons, while the other body of the King's Council received the name of the House of Lords.

The House of Commons is the representative part of the English Parliament. As representatives of shires and boroughs, the Commons provided for the king's taxes. Taxation and representation were ideas fundamentally associated in the English constitution. First, the little township, from which has come so much of our constitution, taxed itself by a vote of the freemen of the town. The representatives of towns in the court of the hundred voted the tax for the hundred. In the county court the four *best men* from each town, and the twelve knights from the shire, voted the taxes upon the towns and the shire. In like manner, in the House of Commons, the two knights from each shire and the two burghers from each town voted the taxes upon the town and the shire.

Preservation of Liberty.— Often these representatives were overawed by kings and lords. Many times taxes were exacted by royal decree, and property was taken without due process of law. Yet the fact that the principle of taxation by the people's representatives was so thoroughly established in the English Constitution was of great advantage to English liberty. When

the people voted a tax to the king, they were accustomed to ask for a redress of grievances or some other boon or privilege. As one historian expresses it, "they bought their liberty with hard cash." The necessities of kings were the people's opportunity.

In the seventeenth century a fierce contest arose between the kings of England and the House of Commons. The Stuart kings claimed the right by royal proclamation to dispense with the laws of Parliament. The House of Commons maintained that Parliament had the sole right to make laws and vote taxes. In this contest one king was beheaded and one was driven from the realm.

Colonization. — During this century of conflict between kings and Parliament permanent colonies were founded in North America by Englishmen, many of whom came to America with the intention of founding a freer and more liberal government.

CHAPTER II.

AMERICAN COLONIES.

Local Government in the South. — The Englishmen who came to America naturally enough fell into habits of government in accord with their habits of local government in the old country. The first English colonies in America were, at the beginning, town, parish or county governments, such as Englishmen would naturally form. Those who gave form to local government in the southern colonies were country

gentlemen, more familiar with the shire or county government in England. Hence, in the southern colonies, local government was organized on the model of the English shire. The squire, or country gentleman, still holds the most prominent place in southern society. The shire in England was ruled in large part by knights, or country gentlemen. Yet the county court had, in addition to the knights of the shire, representatives from towns and boroughs within the shire. In the southern colonies in America there were few towns and boroughs. The people lived apart on plantations. The southern county was a modified English shire, with the towns left out. There was no local government smaller than the county. For convenience in voting, counties were divided into precincts, but the precinct was not a government. In some of the southern colonies manors were established on the model of a lord's estate in England. An effort was made to transplant to the Carolinas feudal land-tenure as it then existed in England. This plan did not succeed, yet there is something in southern society to remind one of the feudal nobility in England.

Origin of the New England Town. — In New England we find English colonies formed on a different model. Those who shaped local government in the South were country gentlemen from the English shire. Those who formed governments in New England were many of them burghers from the English towns. The southern county was an attenuated English shire with the towns left out. Local government in New England was made up of English towns with the shire left out. Many things have combined to reproduce in New

England the ancient English township from which sprung the Constitution of England. The people who founded these towns were from English towns which had preserved many of the ancient forms. They had come where land was to be had for the occupying. They were surrounded by fierce enemies and many dangers. The climate was severe. From the nature of the country agriculture could be carried on only on a small scale. In these circumstances the settlers in New England acted much as did their ancestors two thousand years ago. They selected a piece of land near a spring or stream, and erected their rough houses in a row near by. Sometimes they surrounded their houses with a *tûn* or some sort of defence.

The land surrounding the town was held in common. There was a common field in which the village cows were pastured, and a common woodland for hogs; and sometimes the land was tilled in common. Every year, at the annual town meeting, the freemen of the town adopted by-laws for their government, chose their officers, and adjusted their difficulties, in much the same way as did their fathers of old.

As these towns in New England multiplied, and affairs of more general interest became prominent, counties were organized for the accommodation of a county court. But the county in New England has little to do with the government. Nearly all the administration of local government has been retained by the towns. In the middle colonies of New York and Pennsylvania there was a more mixed population, and the administration of local government was divided between the township and the county.

Conditions Favorable to Liberty.—For one hundred and fifty years the English colonies in America were left largely to themselves. A few harsh laws served to remind them of the tyranny which had driven so many of them from the old world. There were also a few spasms of despotic rule on the part of royal governors. But these served only to knit the people more firmly to their local habits of self-government. They were too far away, too widely scattered, and too poor to be troubled much by the government of England. They were left alone, and they governed themselves. In this history of the English colonies in America we see the process of forming a new government under new conditions.

The People who came to America were peculiar. They were English, Dutch, French, Scandinavian, and German. Yet those who gave shape to government were in nearly all cases Englishmen. Some of these people, we are told, were the very off-scourings of the earth, sent here to escape a worse fate at home. Yet the majority of those who gave form to society were men of more than average worth. They were lovers of liberty. They would brook the dangers of the wilderness rather than submit to unlawful taxation by a tyrannical king. Many were men of unusual religious fervor. They would die rather than disobey conscience. Persecution sent many Europeans to America. Persecuted Puritans and Pilgrims (or Separatists) founded the first colonies in Massachusetts; persecuted Quakers founded Pennsylvania; persecuted Catholics found for a time a refuge in Maryland; persecuted Protestants, from France, found homes in the southern colonies.

These all might have lived peacefully in their former homes if they had consented to violate their consciences.

From the very nature of the case, the first governments set up by these people took the form most familiar to them, — the English shire, town, or manor. The colony was at first simply one town, county, or manor. As the settlers increased in number, colonists went out from among them and established new towns, counties, or manors. In the early history of the colonies each little local government of town or county was nearly independent of every other. But with the increase of population and of business of common interest to the group of local governments, there arose a demand for a more general government.

General Government in the Colonies. — In nearly all the colonies there was from the beginning some sort of authorized general government. In some cases there was a written document, given by the king of England to the colony itself, granting certain privileges and powers, and providing for certain general officers to be chosen by the colonists. In other cases the grant was made to an individual, with some provision for general officers. These charters given by the kings, and the written directions sent out from England, did not meet the needs of the settlers in their new conditions. They were obliged to provide for themselves as best they could. They adopted the common law and the common customs of England; and the actual governments which grew up in this country were influenced much more by local custom and habit than they were by any charter or laws formed in England. Both the local and the general governments in the colonies grew out of the habits of the people.

Connecticut. — In one colony, Connecticut, we have an illustration of a general colonial government growing entirely out of the town governments. In early times, people from England and from New England, without any authority from any source, had come into the unoccupied country, and established colonies in different places. They formed town governments. These towns multiplied, and, in course of time, having many common interests, they found themselves in need of a general government. Such a government was accordingly organized, and to it was given up a portion of the business of a more general nature, which the towns had been trying to attend to independently, or by occasional agreement. All the powers not given up were reserved to the towns. Thus the old towns in Connecticut constituted their colonial government.

The Albany Convention. — War and common dangers made it desirable to have a general government for all the English colonies in America. Before the beginning of the great contest between England and France for the possession of North America, the English government recommended to the colonies in America the formation of a union for common defence. A meeting of representatives from a number of the colonies was held in Albany in 1754, and adopted a plan of union which was submitted for the acceptance of the English government and the separate colonies. The English government rejected the plan of union, because it gave too much power to the proposed colonial government; and the colonies rejected it because it gave too much power to England. But, while there was no formal union, yet the long wars served to accustom the colonies to act together.

The Cause of the Revolution. — After the French and Indian War, the colonies found, in the oppression of the English government, a still stronger reason for acting in unison. Englishmen whose ancestors for a thousand years had contended for the right of being taxed only by their own representatives — Englishmen, too, whose immediate ancestors had taken refuge in the wilderness to avoid the despotic rule of a king — were not likely now tamely to submit to a tax to which they had given no consent. They had, with little help from England, founded an orderly society in the New World. They had voted taxes in town and county, and, through their representatives, also in colonial assembly. They were not willing now to have others do this for them.

The Stamp Act drove the colonies together in deliberative assembly to form plans for the protection of their common rights. The years of doubt and anxiety accustomed them to think and act together.

Need of Union. — On the Fourth of July, 1776, they were able to declare, through their representatives, that these "United Colonies are and of right ought to be free and independent States." The treaty of peace, 1783, left these states free and independent of Great Britain. They were also independent of each other. The Continental Congress, which had served the purposes of a general government during the war, did not meet the demands of government in time of peace. Before the war the English government attended to the commercial affairs of the colonies; now, the states had to attend to their own. To regulate the commerce of thirteen states required the constant activity of a general government. There had grown up, also, a postal

system between the states, and this required a general management. There was a large debt which had been incurred by the states and by the Continental Congress; and this made a demand for a general government, with power to levy and collect taxes.

When our English ancestors needed a government more general than the township to attend to affairs of common interest, they established the hundred court. Later, when these villagers were much of the time in arms and needed a permanent officer to direct the affairs of the entire tribe, the leader of the host became the king of the tribe. In the meantime strong men made themselves masters of the weaker towns. When there was need of local governments larger and more general than the government of the hundred, the government of the shire or county was organized. When Englishmen settled in America they began with a local government of town, county, or manor. As these local governments increased, the general government of the colony came into more constant activity.

The Constitution. — When the thirteen states found themselves in need of a general government to attend to some matters of common interest to all the states, they followed in the footsteps of their forefathers, and framed a general government to meet their needs. The state of Connecticut furnished for them a complete model. As the old towns of Connecticut had organized a state government, giving to it all powers necessary to do a few things of common interest, and had reserved to themselves all other power, so now the people of the thirteen states, to meet their new needs, formed a national government, giving to it all power necessary to attend

to the few common interests, and reserved to the individual states all power not so delegated. This they did by adopting a written Constitution for the United States of America, and organizing a United States government in accordance therewith.

Distribution of Powers. — After the formation of the federal government the states were left in full possession of many of the powers which they had been accustomed to exercise. It was still their duty to preserve order within their limits, punish crimes, enforce contracts, educate the youth, care for the poor and the unfortunate classes, provide streets and highways, hold elections, provide for the government of cities, and attend to a multitude of other local concerns. To the federal government were committed the making of treaties and all dealings with foreign nations, the control of armies and navies, the regulation of commerce with other nations and between the states, the postal service, the coining of money, and a few other matters of general interest.

The Legislative and Judicial Systems of the States and of the Federal Government. — The federal government resembles that of a state in many respects. In each there are three departments, — legislative, executive, and judicial. The legislature in each has two houses, a Senate and a House of Representatives. In each the Senate contains fewer members, and the members have a longer term of office. In the state there is a high court of appeal, or Supreme Court; in the federal government, likewise, there is such a court, called the Supreme Court of the United States. There are inferior courts in both governments. The state

courts have as their special duty the interpretation and application of state laws, while the federal courts interpret and apply the laws of the United States.

State and Federal Executives. — At first view it would seem that the executives of the two governments were likewise similar. The President of the United States recommends to Congress such legislation as he deems of importance for the national government. The governor of a state performs a like service on behalf of the state. It is the duty of the President to sign bills passed by Congress, or to send back any bill which he disapproves, with a statement of his objections, to the house in which it originated. So a governor signs or vetoes bills passed by the state legislature. But when we compare the real executive work of the federal government with that of a state, we find little similarity. The greater part of state executive work is done through the agency of school districts, towns, townships, cities, and counties. Officers are chosen by the voters in these localities whose duty it is to carry into effect the acts of the legislature. The governor has nothing whatever to do with the execution of the greater part of the state laws. But the President is made personally responsible for the execution of the laws of the United States. Congress does not commit the work to the states and local governments within the states; and though it divides the country into districts for the purposes of administration, it does not call upon the people of those districts to choose officers for the execution of federal laws. Federal laws are executed by the President and persons appointed to assist him.

The Cabinet. — The executive work of the United States requires more than a hundred thousand persons. It is too great to be carried on successfully without systematic arrangement and division of labor. The greater part of it is distributed among seven chief departments, with numerous subdivisions. The chief secretaries, or heads of the seven departments, constitute what is called the President's Cabinet. They are the President's chief assistants and advisers. The seven departments and their subdivisions take the place of the counties, townships, towns, cities, and school districts in a state government. In the federal government the President and his associates are responsible for the working of all the parts, while in the state government the chief responsibility rests with the people of the locality and the officers whom they choose.

Summary. — The government under which we live has been forming for many centuries. Little townships, in which the freemen governed themselves; hundreds, in which there was a court made up of representatives from the townships composing the hundred; shires, in which was a county court made up of representatives from the hundreds, townships, and boroughs within the shire; strong towns, boroughs, and cities in which large numbers of the people were united into a closer, stronger bond, — these all were early formed in England, and the kings and lords who gained great power were never able to entirely destroy their freedom. Out of these local governments came the House of Commons and liberty to all the English people. In a time of fierce conflict between the House of Commons and tyrannical kings local free governments were transplanted to

America; and in America the free governments of towns, townships, and counties were united into free commonwealths, and the people of the free commonwealths, or states, formed a federal government.

Suggestions. — Many facts and incidents drawn from the history of the colonies may be used to show the close connection of our present governments, local, state, and federal, with the past experiences of the people. The connection between history and civil government may be still farther shown from facts drawn from the local history of a town, city, or county. If there is a published history of the town, it should be freely used as a source of illustration in a study of the government of the town. If there are no published histories of the local governmental institutions, the study may lead to the collection of material for such a history. An answer to the question, what are the school districts, towns, townships, and counties now doing, contributes so much to their history. Such a question repeated from year to year, and the answers recorded, make up their annals. But to understand what these governments are now doing involves some knowledge of what they have been doing. A thorough knowledge of the past is the best possible preparation for understanding the present. Schools where local government is taught may properly become agencies for collecting and preserving valuable sources of history.

PART II.

MATTERS CHIEFLY LOCAL.

CHAPTER III.

EDUCATION.

Origin of Public Schools. — The Englishmen who founded colonies in America were accustomed to the support of the Church by taxation. The Church was a part of the government. In Virginia and Maryland the Church of England was established. In New England each town had its own Independent or Congregational Church. The town chose its pastor and supported him by taxation. In many cases the pastor was also the school teacher. When another was chosen to teach the town school, he was employed by the town. In course of time, through the multiplication of sects, and from other causes, the Church became disconnected from the government; but the work of education by the government was still continued.

In 1787 the Continental Congress passed an ordinance for the government of the territory north of the Ohio River. It was enacted that schools and the means of education should forever be encouraged. In pursuance of this policy, Congress set apart the sixteenth section in each township for the support of public schools. The

proceeds of the sale of the sixteenth section come into the treasury of the state; and the state is thus committed to a public school system. In this way education by the state was extended to the West. Since the abolition of slavery, the southern states have adopted a public school system; and the education of youth is now an important part of the work of every state in the Union.

A school, from its very nature, is a local institution. A child cannot properly be required to go farther than two miles to school. It is desirable therefore that there should be a schoolhouse within two miles of every home.

The School District. — In the country west of Pennsylvania, wherever the rectangular survey prevails, there is much regularity in the size and shape of the school district. The township is six miles square. It is customary to locate a public highway on each section-line. These highways divide the township into little squares of one mile each, and it is customary to locate a schoolhouse at each alternate cross-roads. This plan gives to each township nine schoolhouses two miles apart. A school district is thus made two miles square, with a schoolhouse in the centre. But this is an unfavorable shape. Those who live at the corners of the district are two miles from school. A more convenient method of forming districts is indicated in Fig. 1. By this plan a district is formed, containing five square miles, instead of

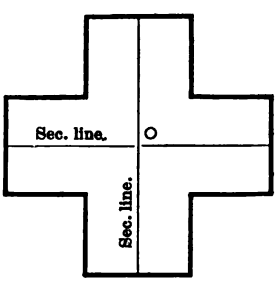

Fig. 1.

four; and no one who lives upon a public highway can be more than a mile and a half from school. On this plan the children living on the same highway go to the same school; while on the other plan, they often go to different schools.

The School Board. — The work of education is in most cases carried on by an entirely separate local government. Officers selected to do school work have nothing to do with any other act of government. There are different forms of organization for educational work in the different states; but in nearly all cases the local school business is placed in the hands of a school board. In some of the states the township is made into a district for school government. The township is divided into sub-districts; each sub-district elects one director, and all the directors in the township constitute the school board, which has charge of the schools of the township. Each director is the local agent of the board in his own district. He may also have some independent powers. In other places, each school has an independent management. In that case a board is chosen which has entire charge of local school work. In nearly all cases towns and cities have a school government entirely separate from the country schools.

Whatever may be the form of a local school government, the work to be done is nearly the same in all places. In the first place, the limits of the district are determined either by the people in the locality or by local officers. The schoolhouse is then located by vote of the citizens, or by the school officers. A tax for building is voted by the board or the citizens; and the house is erected under the supervision of the school

officers. The local school officers fix the rate of wages for teachers, and the time during which the school shall be taught. They hire teachers and assist them in governing the school, supply fuel and apparatus, and in some places furnish the scholars with text-books. Some states make it the duty of school officers to compel the attendance of all children for a specified time.

Support of Schools. — Schools are supported either by a state fund or by a tax levied and collected in the school district. Many of the states have a fund derived from the sale of the lands given to the state for that purpose by the United States government. This fund is kept by many states as a permanent school fund, the interest on which is distributed to the school districts, in proportion to the number of persons of the proper age to attend school. Each district uses its share so far as it will suffice for the payment of school expenses, supplementing it by a local tax when necessary.

Care of Funds. — Large sums of money pass through the hands of school officers, and various safeguards are provided to prevent its being lost or stolen. Some of the officers who have charge of the money give a bond to secure the government against loss. Each local board has a treasurer, who is responsible for the money belonging to the district. The treasurer is not permitted to pay out any of the money unless ordered to do so by the president or the secretary of the school board. These orders must be made in writing, the orders must be preserved, and a record of each order must be kept by the officer who makes it. In this way duplicate accounts are kept of all the money transactions of the district. This is a further safeguard against loss.

Teachers' Certificates. — One of the difficult tasks in the work of education is the securing of suitable teachers. It is found desirable to make a law forbidding any one to teach in the public schools unless he has been examined by responsible officers, and has received from them a certificate of fitness for his duties. In some cases the examiners are the local school board. In other states there is a county educational board, which examines teachers and attends to other matters of general interest to the schools of the county. In still others, a single county officer attends to this business. Teachers' certificates are generally issued for a short time, one year or less. In some states the officers are empowered to issue certificates for a longer period.

City Superintendent. — In the large towns and cities it is found desirable to grade the schools and adopt a regular system of promotion from one room to another. To provide for this work, it is convenient to place the entire oversight of the schools in the hands of one person. In many cases the city superintendent devotes his entire time to grading the schools, planning work for the teachers, and finding and introducing the best methods. By the continued services of skilled superintendents, many of the city schools have reached a high degree of excellence, not attainable without such supervision.

County Superintendent. — In country schools the need of superintendence is not so apparent as in cities. Confusion does often arise for want of it, but it is not so manifest as in a city. The schools are isolated. One district may have a good teacher, and make rapid advancement, while the next district may make little

advancement. A new teacher, not knowing what has been taught, may go over the same ground, with little profit to the student. These things would not happen under a skilled and faithful superintendent. To supply this need, many states have provided for a county superintendent, whose duty it is to examine teachers and issue certificates, to hold institutes for the instruction of teachers, to visit country schools, and advise teachers in their work.

State Superintendent. — In nearly all the states there is a superintendent of public instruction, who has general oversight of the educational work of the entire state. One part of the duty of the state superintendent is to collect official information concerning the condition of the schools throughout the state. The officers of school districts are required by law to make out reports of their schools, and send them to the county superintendent. The county superintendent collects reports from all the districts in the county. From these he makes out a report to the state superintendent. In this way the superintendent is informed of the condition of schools in all parts of the state. He makes a printed report to the legislature, from which the law-makers may be informed of the needs of the schools. It is also the duty of the superintendent to suggest to the legislature ways of improving the school laws of the state.

Judicial Business of the Superintendent. — The superintendent gives directions to local officers in reference to the administration of the school laws. Many disputes arise as to the meaning of the law and its application to special cases. These sometimes occasion suits in the ordinary courts of law. More frequently, however,

these disputes are settled by the aggrieved parties appealing from the decision of the local board to the county superintendent. In case his decision is not satisfactory, an appeal may be made to the state superintendent. In this way difficult points in the administration of the school law are settled with little expense to the parties interested. In many instances difficulties are avoided by the superintendent's publishing in advance what would be the application of the law to particular cases.

Township, County, and Normal Schools. — In some states the country school districts are authorized to unite and establish a central school of a higher grade, to which the more advanced students may be sent. In some counties a high school is maintained under the management of a county board. For the education of teachers many states have established normal schools. These are controlled usually by a board appointed by the legislature, which also appropriates money for their support.

State Universities and Agricultural Colleges. — State Universities are maintained in many of the states. In most Western States these were founded by a grant of land for that purpose from the United States government. They are maintained by appropriations from the state legislature, and are governed by a state board of regents. For the encouragement of agriculture and the mechanic arts, Congress gave to each of the states, in 1862, a grant of land, the proceeds of which are invested according to the terms of the grant, and the income is appropriated to meet the current expenses of a college. A state receiving the grant is required to furnish land

and buildings, to establish the college, and to provide for its government.

A large part of the work of higher education is done by endowed institutions, colleges, universities, and professional schools, without any help from the state. Likewise much common-school work is done by private enterprize without aid from government.

Educational Work of the Federal Government. — The United States government maintains an academy at West Point, for the education of army officers; another at Annapolis, to educate officers for the navy; and a college for deaf-mutes at Washington. A school for instruction in the Signal Service is maintained at Fort Whipple, Va. Common schools are also supported at the various military posts of the United States. Congress appropriates money for the education of Indians. In 1867, Congress established a Bureau of Education to collect and publish educational statistics and other information for the benefit of educators throughout the land.

It thus appears that the greater part of the work of education is under the direction of the states. Within the states the work is in large part done by the school districts, a few schools only, of a more general nature, together with some work of supervision and the collection of educational statistics being attended to by officers of the county, the state, or the nation.

Summary. — Education by the government was from the first almost universal in New England. Through grants of land to states for schools the system was extended to the newer states of the West, and more recently it has been extended to the South. The cit-

izens of the school district, or officers chosen by them, administer the school laws. Cities have a superintendent of schools; in many states a county officer superintends the work of education for the county, and collects information about school work and makes a report to a state superintendent. High schools are maintained by some counties; the states maintain normal schools, universities, and agricultural colleges, and the federal government maintains military academies.

Suggestions. — Who employs the teacher? How are the local school officers chosen? Name the school officers. What are their duties? Who owns the schoolhouse and grounds? How was the lot for the house secured? How is the money obtained for the payment of the teachers and for other expenses? Is there an officer in the district who collects the school tax? Who does collect it? Does the school receive money from the state? Does it receive money from the sale of lands given by the general government? When and how was the school district organized? Examine the records of local school officers, or consult with the officers and collect facts of interest. Does the county, or do county officers do anything for the district? Who makes the rules for governing pupils? Who makes the laws to govern school officers?

CHAPTER IV.

HIGHWAYS.

It is said that the voters in the road district in which President Tyler resided, after he had failed to satisfy his constituents in the office of President of the United

States, chose him as their road supervisor, and that in this office he was entirely successful. Without vouching for the truth of these statements, we may feel sure that the man who shall devise the cheapest and most practical method of securing good roads in all parts of the United States will deserve more lasting gratitude than can be deserved by the successful administration of the office of President of the United States.

Share of Federal, State, and Local Governments in Road Work. — Roads are a necessity, and suitable provision for them is a part of the business of the government. And since the government has the right to take any private property and devote it to a public use, paying therefor a reasonable compensation, it exercises this right, by taking land to be used for public roads. By the authority of the state, counties or townships locate and establish roads. In some cases the state itself establishes and maintains some of the more important of them, which are therefore called state roads.

The Constitution of the United States gives to Congress power to establish post-roads. In the exercise of this power, Congress has often appropriated money for bridges, and in one instance, at least, located and built a national road. But, as in the case of education, the greater part of the road work is done by the local districts.

Road-Building. — Road work consists in locating, draining, and grading the road, removing obstructions from it, building bridges and culverts, and providing a dry, hard surface for travel. In the greater part of the United States the surface of the roads is composed of

the natural soil. This is often muddy in wet weather, dusty in dry weather, and rough in cold weather. To remove these imperfections various methods of road-building have been devised. The most noted of these is the one invented by Mr. J. L. Macadam of Scotland, about a hundred years ago. To *macadamize* a road is to cover the natural soil to the depth of from six to ten inches with irregular fragments of granite or other stone, not over three inches in diameter.

Local Officers. — Whatever may be the method of road-building, the public road requires the constant oversight of an officer of the government. In some states a township board districts the township for road purposes. Each road district selects its road master, whose duty it is to keep the roads in proper repair. The township board votes a tax upon the township for road purposes, and provides tools to be used on the roads; and an officer of the board is generally made responsible for road money and property.

Road Taxes. — In the rural districts it is customary for road taxes to be partly paid in labor. Each man, not specially exempted by law, is required to work on the public roads. In cities and incorporated towns the care of streets and highways is in the hands of the corporation. In the country special provision is seldom made for travellers on foot; but in cities their accommodation is important. The city government often requires the owners of lots to build sidewalks along their lots, while work upon the streets is done by the city, and the expense is met by a tax levied by the government upon the entire city. In many of the large cities the work upon the streets is so important and so diffi-

cult, that it is found to be economical to employ skilled engineers to superintend the business. This business is naturally connected with city drainage and sanitary provisions.

In some of the states local road business is divided between township and county. The county locates the roads and builds the more important bridges, leaving the remainder of the work to the townships. In many of the states there is dissatisfaction among the people with their system of road management. Next to the education of the youth, the making and repairing of roads is the most expensive work done by the government. It is observed that the road tax is often expended in a wasteful way. Many states seem to be hopelessly in the mud. The people pay a heavy tax; yet little progress is made toward securing good roads. Some persons are in despair, and say that in a large part of the United States we can never have good roads. But England was in the mud for more than a thousand years; and when Mr. Macadam built his first road, he was hailed as a deliverer. He was employed by the English government to superintend road-building in the vicinity of Bristol; and Parliament honored him with a special gift of ten thousand pounds.

County Engineers. — It is possible that good and economical roads in our own country might be secured through the employment of expert engineers to superintend their construction. The counties in many places already have charge of the business of bridge building, as it is more just and equitable for this burden to be borne by counties than by smaller districts. It would be good economy, therefore, to employ a skilled engineer

to take charge of it. It might be made his duty to give directions to the local road officers as to the most approved methods of road-building. There is an expensive way and a cheap way of draining and of grading. It should be his business to see that this work was done in an economical way. It should be the aim of the government to find a man who would devote all his powers to the problem of so applying the road taxes of the county as ultimately to secure good roads. There should be frequent meetings of the engineers of adjacent counties, to compare notes and avail themselves of each other's experience. Some of the states already have a state engineer. Under the system of county engineers, the state engineer would become a more important officer, being the chief of a corps of engineers, all engaged in a great service for the state. County engineers should be required to keep an accurate record of every kind of work done on the roads. At first much of the work done would be in the nature of experiments, the results of which should be recorded. Reports should be made to the state engineer, who should embody these results in a general report, and prepare manuals for the use of local officers, giving plain directions for the application of those methods which experience had proved to be best.

It may be objected that a hundred skilled engineers constantly employed would cost a large sum of money; but it should be remembered that it now costs the state a large sum of money not to have the results of experience applied to the work on the roads. As in education it is poor economy to carry on the work without the help of skilled superintendents, so in the difficult

task of making and maintaining good roads, it is a waste of money to do the work without efficient and skilful supervision.

Summary. — Road-building and the care of roads, from the nature of the work, are most easily and naturally provided for by the people of the locality; there must at least be an officer near to attend to repairs. The business is almost entirely in the hands of states; the state legislature commits the work to road districts, towns, townships, cities, and counties. These choose the necessary officers, levy and collect taxes, locate and build roads. Often a large part of the taxes is wasted in fruitless experiments. It is good economy to spend a part of the money in finding out the best methods.

Suggestions. — At first there would seem to be no connection between a public school and a public road, yet the schoolhouse must be located on a street or highway. In some states the school officers have power to open roads leading to the schoolhouse. If the school is in the city, learn a few facts about highways in the country, but make a special study of streets and sidewalks. In the country school pursue the opposite course. In a direct study of the subject, many questions will suggest themselves. How is the land for a highway secured? Who owns the road? If Mr. A.'s land is taken for a street or highway, does he receive for it any compensation? Name the officers who have charge of the street on which the schoolhouse is located. How are the officers chosen? What compensation do they receive? An account of an actual case at law arising from an injury received on the street or highway may serve to fix many useful points. A map

showing the various road districts of a locality may be compared with a map of its school districts.

CHAPTER V.

CARE OF THE POOR AND OTHER UNFORTUNATE CLASSES.

Efforts to Limit Pauperism. — The states proceed upon the assumption that every person will support himself if he is able to do so. If a person is not able to support himself, our state laws require his kinsfolk within specified limits to support him. In case there are no kinsfolk able to support him, the law makes it the duty of the town, the township, or the county in which he has a lawful residence to furnish such support as the case demands. States try to protect themselves from the burden of pauper relief by fining persons for bringing paupers into the state, and by sending from the state paupers who have not gained a legal residence. A township or a county which has the burden of pauper support may return to the township or county from which he has come any pauper who has not gained a residence. It is the policy of governments to have poor persons supported by the community where they were living when their disability arose, and where, consequently, all the facts in their case are best known.

Support by Townships. — In many of the states the care of the poor is made, entirely or in part, the duty of the town or township government. Where the township has the entire care, it is customary to hire the poor kept by some responsible person. Overseers are

chosen, whose duty it is to see that the laws concerning the poor are properly executed. When persons are in need of temporary aid, the officers furnish it, and encourage them to help themselves, and not become a permanent burden upon the government. If it is found that the government is required to give a large part of the support of individuals, they may be deprived of their liberty of action, and pass entirely under the control of the superintendent of the poor.

Poor-Houses. — It is often difficult and expensive to hire persons who have suitable homes to take care of the poor. To avoid this difficulty, the government has in many cases adopted the policy of owning a farm and buildings upon it for the use of the poor. A superintendent is then chosen to take charge of the house and farm, and support the poor according to the rules and regulations of the government. Paupers who are able are expected to work on the farm or in the house, and thus diminish the expense of their support.

By Counties. — In case the government establishes a poor-farm, it may be cheaper and more satisfactory to do this on a larger scale than can be afforded by a township. The business then passes into the hands of the county, which maintains the house and farm, and the county officers make its rules and regulations and choose the superintendent. The township may still be required to furnish temporary relief to the needy, and to pay the county for the support of each person sent from that township to the county poor-house, thus retaining the chief burden of supporting the poor. In other states the county has the entire burden, and county officers furnish the entire relief both in and out of the county house.

Difficulties. — The help of the poor by the government seems to be a simple matter, but it is believed by those who have given the subject most attention that there are few things which the government is called upon to do that involve greater difficulties. Methods of relief have been adopted which are believed to have been potent causes of disaster and ruin. A government cannot safely assume the support of persons who can be taught to support themselves. It is better for the government to use means which will so far as possible prevent poverty. In the care of the poor, as in education and in road-building, it is economy, in the end, for the government to adopt the most approved methods, and to seek to know what is best before making lavish expenditures.

The Insane. — Besides the poor, there are other unfortunate classes for whom the government makes provision. Insane persons require special treatment which it is often impossible for private individuals to provide. The care and treatment of the insane can therefore be best secured in homes provided exclusively for them, and under the charge of persons especially skilled in the treatment of nervous diseases. Private hospitals are sometimes established, to which persons who are able to incur the expense send their insane friends. But, since many are not able to meet this expense, it becomes necessary for the government to make provision for them. There are but few insane persons in a township, and comparatively few in a county; but there are many in a state. It is found to be more economical therefore for the state to provide the institutions necessary for their treatment. In some of the states

counties are required to pay to the state a fixed sum for the support of the insane sent from the county to the insane asylum. Many insane persons are kept in county houses. These are, for the most part, cases which have been pronounced incurable. A charge for the support of a patient is sometimes collected from the relatives who are able to pay.

The Education of Unfortunates. — Some states maintain special educational institutions for feeble-minded children, for the blind, and for deaf-mutes. Special provision is also now made in many of the states for juvenile criminals. These are on the border land between unfortunates and criminals, and are treated by the state as persons to be specially educated, corrected, and reformed. For this purpose, reform schools are established and maintained.

All these institutions are controlled by boards chosen by state authorities, and are supported by money appropriated by the state legislature, which makes all needful rules and regulations for their management.

Federal Relief. — The government of the United States maintains homes and hospitals for disabled soldiers and seamen, and an asylum for insane soldiers and for the insane of the District of Columbia.

Thus the relief of the poor and the unfortunate is chiefly in the hands of town, township, and county governments. The state provides for special classes, whose numbers are small, and the United States provides for some of those in its own service, and for some who are engaged in commerce upon the high seas.

Summary. — There are various classes of unfortunate persons who receive special attention from the govern-

ment. Of these, the most numerous is the poor. The majority of those whom the government aids on account of their poverty receive temporary aid in time of sickness or some special misfortune. These retain their liberty and are expected to support themselves as far as possible. Others are taken under the entire control of the government. The neighbors of the poor are the best judges of their needs. The state legislatures, therefore, commit the care of the poor to towns, cities, townships, and counties; while other unfortunate classes, as the insane, blind, and deaf-mutes, are provided for in state institutions.

Suggestions. — There are school districts and road districts: are there any special districts for the aid of paupers? Who are the overseers of the poor? Are they officers of the town, township, or county? Do they have other official duties? What proportion of the entire population of the town (city or county) receive aid from the government? What relatives may be required by law to support their disabled kin? May children be compelled to support parents? May grandchildren be compelled to support grandparents? May grandparents be compelled to support grandchildren? May a wife be compelled to support her husband? Questions of this sort may be answered by reference to the code of the state, to the officers of the poor, or to an attorney-at-law. Articles from current literature on the efforts to abolish pauperism may be read. Yet the first aim is to become acquainted with the government. What is done now by the various governmental institutions for the unfortunate classes? A case at law resulting in sending a boy to the reform school, or a

case growing out of the care of the poor, may be used to show the relation of the courts to the subjects of the chapter.

CHAPTER VI.

TAXATION.

Need of Revenue. — The United States government has been the owner of most of the lands upon which we live. These have been sold or have been given to individuals or to states. The land given to states is for the most part sold by the state, and the money is put into a permanent fund for the support of common schools or some other educational institutions. With the exception of the amount derived from the sale of public lands, the money which the government receives must be collected from the people. The government engages in no productive business; it makes no money. And since the work of education, the building of roads, provision for unfortunate classes, the administration of justice, the support of armies and navies, and the many other things which the government is called upon to do, make a constant demand for a large amount of money or of property, it follows that an important part of the business of government is to collect taxes, to provide for the safe keeping of the money thus secured, and to expend it in such a way as to secure the objects for which it was collected.

The State System. — The greater part of the tax collected by the authority of the state is levied directly upon individuals and upon property. Some states levy

a tax upon all voters, or upon all able-bodied men of a given age. This is called a poll tax, and is sometimes collected by requiring the person taxed to work upon the public highways. The tax levied upon property is, however, the one chiefly relied upon for the support of state governments.

Valuation of Property. — To collect a property tax there must first be a valuation of the property. For this purpose the towns, townships, and cities choose assessors, who make a list of all tax-payers and all taxable property within their respective localities. The assessors are required to affix the true value to all the property in the list. The value actually affixed to property in the assessors' list is generally less than the real value. It makes no difference in the result; since, if the sum which stands for the value of the property is small, a proportionally higher rate is paid. The point which is of especial consequence in the valuation of property is that no tax-payer's property shall be rated either higher or lower than that of others. To correct errors, the assessors' list passes into the hands of a local representative board, and errors and inequalities are corrected. If all the property within the town or township is proportionally valued, it makes a just list for the collection of the town tax. But for the collection of a county tax, where the town or township is associated with other towns, the lists are not just unless they are all rated on a uniform valuation. To equalize the assessments of the different municipalities within the county, a county board receives a copy of each of the assessors' lists, compares them, and makes such changes as justice seems to demand. A state board of equalization then

receives the lists from all the counties, and corrects inequalities between the different sections.

Levying of Taxes. — When the taxable property is legally valued, the various governments within the state can determine their rate of taxation. A representative school board or a meeting of the voters in the school district determines the amount of tax to be raised in the district for school purposes and the rate of the school tax. The citizens in town meeting or through a township board vote a tax for road purposes and other needs of the township. For incorporated towns and cities, the town or city council fixes a tax. A county board estimates the expense of the county government, and levies a corresponding tax upon the county. The state legislature determines the amount of money necessary for the payment of state officers and the support of the state institutions, and other objects, and prescribes the tax to be paid into the state treasury.

Tax Collectors. — In some states the township is the chief tax-collecting agency; in others the county is the chief agency. Where the county system prevails, a county officer takes the assessors' lists of the entire county after they have been corrected by the various boards, and also an official statement of all the taxes voted by the different governments within the state, and from these he estimates the amount of tax to be paid by each tax-payer in the county. The book containing these estimates passes into the hands of the county treasurer. The law fixes the time of payment. If the tax is not paid before the specified time, a fine or penalty is added. If the tax is still unpaid after a further specified time,

the property is sold at public auction. The government thus collects enough money to pay the tax and all the expenses incurred in the sale, and gives to the purchaser a tax-title to the property. The tax-title becomes a perfect title if within a time specified by law the former owner of the property does not redeem it by paying all costs.

Treasurer and Auditor. — The money thus collected by the county treasurer is for the support of school districts, townships, incorporated towns and cities, the county, and the state. The county treasurer must open an account with an officer in each of these governments, and see that the money collected for each goes to its proper place. The treasurer is required to give a bond, and another county officer is required to keep a strict account of all the money paid into or out of the county treasury. The treasurer pays out no money save as he is ordered to do so by the auditing officer; and the treasurer's account should correspond with that of the auditor.

Licenses and Fines. — Besides the general tax upon property, taxes are collected in incorporated towns and cities upon houses and lots, for the improvement of adjoining streets. Other taxes are collected under the name of licenses for certain kinds of business, such as the selling of intoxicating drinks. The government also receives some money from fines and forfeitures. All of these sources of income amount to but little in comparison with the general tax upon property.

Exemptions. — In the general property tax some forms of property are exempted from taxation. The assessor makes a list of the taxable property only.

States generally exempt a portion of the personal property, including the tools and utensils of laborers. Churches, parsonages, institutions of learning, and various charitable institutions are in most states exempt, on the ground of their advantage to the public. As a matter of experience, the greater part of the tax is collected from real estate.

Reasons for not taxing Notes and Mortgages. — Many persons who have given the subject of taxation most careful and conscientious study, have come to the conclusion that the government ought to exempt from taxation all money, notes, mortgages, bonds, and other forms of invisible property. Assessors do not find the invisible property. As a matter of fact only a small part is taxed. It is manifestly unjust to tax a part and allow a part to go free. The loaning of money, like other business, is done chiefly in towns and cities. In all large towns there are persons who conceal from the assessor money, notes, mortgages, and all forms of invisible property. Taxes in cities are generally high, sometimes four or five per cent. The man who conceals his money from the assessor is in competition with the honest man, who reports all his property. The dishonest money loaner has an advantage of four per cent over all others. There is here a bribe of four per cent per annum upon their capital for all honest money loaners to become dishonest, or to sell out their business to the dishonest. The government, by the attempt to tax, drives the business into the hands of those who conceal their property from the assessor. The government gets no tax; the dishonest money loaner gets as high a rate of interest as if paying the high taxes, while the borrower

pays a wholly gratuitous bounty to the dishonest loaner. Now, if the government would simply cease trying to tax moneys and credits, the honest lender and the dishonest one would be placed on an equality; interest would be lower; the borrower could afford to build more houses and shops, and, instead of rewarding dishonesty by a high rate of interest, the borrower could pay a tax upon the visible property which a low rate of interest had enabled him to create. It is a question, moreover, whether it would be good policy to levy a tax upon moneys and credits, even if it could be thoroughly collected. The tendency of such a tax is to increase the rate of interest by the amount of the tax, and thus to entail a special burden, not upon the loaner, but upon the borrower, the class most actively engaged in the creation of wealth.

Bonds should not be taxed.—It is often economical, and it is sometimes necessary, for the government to have the use of more money than can be collected at once by taxation. An expensive building is to be erected, or a war is to be waged. In such cases the government borrows money, and issues its notes, promising to pay at some time in the future. The government has no more power in the borrowing of money than an individual. In some respects the government resembles an insolvent borrower. Some men, who cannot be compelled to pay their debts, can, nevertheless, borrow money on pretty favorable terms, because men believe they will pay. The government can often succeed in borrowing on favorable terms, because men believe that it will pay. They know that, in most cases, the government cannot be forced to pay.

For a government to tax its own notes or bonds would be just as rational as it would be for an insolvent borrower to publish in advance that he would only pay a part of the interest agreed upon in his contract. Men would either not loan to such a borrower, or they would make the interest high enough to cover all risks of non-payment. If a government were expected to tax its bonds three per cent, the creditor would add three per cent to his rate of interest, and the account would be equalized. But the government, in order to borrow on most favorable terms, is often compelled to place its notes in the hands of its creditors, and permit them to be bought and sold like merchandise. The attempt of the government to tax these bonds drives them into the hands of those who avoid the tax. The government gets no tax, and the tax payer is compelled to pay a high rate of interest, which benefits no one save the dishonest creditor. It is clearly the best policy for the people to have it thoroughly understood that no bond issued by federal government, state, county, city, town, township, or school district, shall, under any circumstances, be taxed by any authority in the nation. In this way the bond-holder may be compelled through a low rate of interest, to share the burdens of government, and the tax-payer is relieved.

Federal Taxation. — The Constitution of the United States forbids the states to derive a revenue from a duty upon goods imported or exported. The states are, for the most part, shut up to the method of supporting government by a direct tax on property. The federal government also, has, under the Constitution, the right to levy and collect a direct property tax. But the fed-

eral government has no power to compel the states, or the local governments under the states, to do the work of collecting a federal tax. For the federal government to collect a general property tax by means of federal officers, would require a vast army of such officers, some of whom should be posted in every township in the land. The difficulty of such a system would be so great that it is not likely that it will ever be adopted; hence the federal government is practically shut up to the policy of securing a tax in some other way.

Revenue from Land-Sales and from Postage. — The federal government has at times received a large revenue from the sale of public lands. In the year 1836 it was nearly equal to the income from all other sources combined. At the present time it is comparatively insignificant. Its collection belongs to the Department of the Interior. Land offices are opened in the vicinity of lands offered for sale, and the money received in payment is accounted for to the Treasury of the United States.

The Post Office Department is supported chiefly by the receipts for postage. It is the policy of the government to collect no more revenue in this Department than is necessary for its support. Most years there has been a deficiency to be made up by an appropriation from other sources.

Internal Revenue. — For ten years following 1792, for a few years after 1814, and ever since 1863, a considerable revenue has been derived from a tax on commodities produced in this country. For a few years after the Civil War it brought in more than half the revenue, and it still brings in about one-third. The

commodities selected for an internal revenue tax have often been such as were deemed injurious to the people, and one object of the tax has been to discourage their production and use. The articles from which the greater part of the internal revenue is now derived are tobacco, beer, and distilled liquors.

In the Treasury Department there is a Commissioner of Internal Revenue to supervise the collection of this tax. The country is divided into more than a hundred collection districts, in each of which are appointed collectors and assistants whose duty it is to carry into effect the revenue laws.

Customs. — By far the most important source of revenue to the federal government has been customs, or duties upon imported goods. For the entire period of our history more has been collected from this source than from all others. The commodities upon which duties are imposed are numerous. More than twenty pages of the Revised Statutes are occupied with the tariff lists. While the commodities on the list are numbered by thousands, the greater part of the revenue is derived from a few. From some articles there is no revenue, because the tax is so high that people will not be at the expense of importing them. One object of the tariff has been to encourage home production. The foreign commodity is taxed for the purpose of preventing its sale in America in equal competition with home products. A tax for this purpose is called a Protective Tariff. A tax on imports, maintained solely to raise revenue for the support of the government, is called a Revenue Tariff. A pure revenue tariff may be collected from two classes of commodities: first, those

which are not produced in this country, as tea, coffee, and spices; second, commodities on which an equal home tax is laid when produced here. For instance, under such a tariff a duty upon tobacco would be allowable precisely equal to the internal revenue tax, for then all tobacco, whether of home or foreign production, would pay an equal tax, and share equally in the advantages of the market.

The collection of duties upon imported goods is also a part of the business of the Treasury Department. The law establishes ports of entry, that is, harbors where ships are authorized to unload; and collection districts, more than a hundred in number, with collectors in each port and district.

Summary. — There are two independent taxing authorities, the state and the federal government. Governments within the state are supported by: (1) a direct tax upon property; (2) a poll tax; (3) license fees; and (4) fines. Of these, the direct tax upon property is the chief source of revenue. Taxes are voted by the state legislature, for general state expenses; and by local boards in counties, cities, towns, townships, and school districts, or by electors in these districts, for local expenses. Property is valued by assessors and various boards of equalization. Taxes are collected by local officers, and paid into the hands of the treasurers of the various governments, and paid out under the direction of the auditing officer or an auditing board.

The federal government has a constitutional power to levy and collect a direct tax on property, but it has no local agencies through which to exercise such power. It therefore derives a revenue from other sources,

chiefly (1) duties on imported goods; (2) internal revenue tax (on beer, distilled drinks, and tobacco); (3) postage; and (4) public lands. Customs and internal revenue are collected by officers in the Treasury Department; postage is collected in the Post Office Department; and revenue from public lands by the Department of the Interior.

Suggestions. — Review Chapters III., IV., and V., and point out the relations of the topics treated to taxation. Tax receipts and the official reports of local officers may be presented to the class, and explanations made. Copies of assessors' books may be obtained from local officers for use of the class. The whole subject should be illustrated and made clear by the actual facts of the locality. Who are the tax-payers of the district? What proportion of the inhabitants pay no taxes? Does any portion of the tax collected by the state go to the support of the United States Government? What proportion of the federal tax should the people of your state pay, making population the basis of the estimate? Which costs the greater sum *per capita*, the support of the federal or of the state government? When and how is the federal tax paid? Indirect taxation has been popular in part because the tax-payer is ignorant of the fact that he pays. How can the illusion be dispelled?

CHAPTER VII.

INCORPORATED TOWNS AND CITIES.

HOUSES are nearer together in cities than in the country; there are more people to the square mile, and they

follow a greater variety of occupations. These facts make it desirable to have a special and peculiar form of government for such communities. In respect to education, work upon streets and highways, and care for the poor, city governments generally have control within their limits. The work of government is carried on in a more thorough and systematic way. This arises in large part from the fact that a large amount of work is massed together. If a thousand children attend one school, a more systematic division of labor will be adopted in the work of education than would be the case if the same number lived so far apart that not more than fifty could attend one school. If streets in cities received no more care than highways in the country, they would often be impassable.

Peculiar Needs of Cities. — Cities need all the government which the country needs, and much more. In the country one may use any material which he chooses in building his houses. In the city the government may forbid him to use a combustible material. If a house takes fire in the country, the government gives no aid in putting out the flame. In the city there are special provisions for extinguishing fires. There are boards of health in many country townships, but they have little to do. If people in the country do not observe proper health regulations, their neglect does not materially affect their neighbors. In the city, individual habits may affect the entire community. If the city government does not enforce proper health regulations, the people are in danger of deadly pestilence. The people of the city are often unable to secure a separate supply of wholesome water for each family; and it becomes neces-

sary or desirable for the city government to furnish a water supply. The city government lights the streets, and in some cases furnishes light for private houses. Crimes are more frequent in cities than in the country; therefore the city is in need of special laws for preserving order, and of special officers for enforcing the laws.

These peculiar needs of city governments are met by the states in different ways. Some have a general statute in accordance with which towns may be incorporated, and thus become possessed of special powers. The statute may provide for the smaller incorporated towns or villages a simple organization with few more powers than those of country townships; while the large city is provided with a more complex government, possessing more extended powers. Some cities are governed under written charters, received from the state. Whatever may be the form of the city government, it derives all its powers from the state government, and its constitution may be altered at any time by the state legislature.

Officers of City Governments. — The characteristic officers of a city are a mayor, councilmen, police judges, and a marshal. It is the business of the city council to make by-laws for the government of the city, and to provide ways and means for their enforcement. It is the business of the mayor to see that the laws for the government of the city are properly enforced. Police courts decide cases arising in the enforcement of city ordinances, and it is the business of the marshal to execute the orders of the court.

Difficulties in City Government. — Many thoughtful persons take a discouraging view of the government of

our large cities. They see in them a vast amount of crime among the people and of corruption in the government. In many cases the worst classes seem to rule. They elect officers who levy and collect heavy taxes, and use the money which they thus obtain for buying votes with which to keep themselves in power. The tendency of such a government is to get worse and worse, till it becomes unendurable. Some persons maintain that the only way out of this difficulty is to go back to a more limited suffrage. This, however, is so far opposed to the spirit of the age, as to be impossible without violent revolution.

Cities have preserved Liberty. — From the history of towns and cities one would get a more favorable opinion of the influence of cities upon the cause of liberty and good government. It was in the towns and cities of England that the ancient forms of liberty were preserved. In almost every contest against tyranny the cities were on the side of liberty. The oldest charters securing liberty to the subject were bought or wrested from kings or lords by towns and cities. London received a charter from William the Conqueror; and the free burghers of London, on more than one occasion, turned the scale in favor of liberty in a contest with despotism. From the political education of free burghers, received through the management of local town or city affairs, more, perhaps, than from any other source, have Englishmen been enabled to preserve their liberties and to carry the principles of democracy into their national government. Is it, then, true that towns and cities are to destroy the popular governments which they have done so much to build up?

Cities may teach Difficult Lessons in Government. — It is wise for Americans to pay special attention to the government of cities. We should go to the city to master the difficult lessons in government. Whatever difficulty besets the city will, as population increases, beset the country also. If we would learn the best methods of school work, we go to the city. If we would gain advanced knowledge in the best methods of road-building, we learn it in the city. Our cities can teach the best that is known on all questions relating to the preservation of health. If we would know how to restrain and banish pauperism, our cities give us the best light we have. Last, but not least, we must look to our cities as one of the sources of information upon the best methods of detecting and preventing corruption in government. If popular government cannot succeed in a city, we may be pretty sure that it will not succeed anywhere. It would be wise for us, instead of viewing our great cities as plague spots on our body politic, to look upon them as providential schools for the study of difficult questions in politics, enabling us to meet and solve in detail the more intricate problems of government.

Summary. — The massing of people together gives rise to new and peculiar needs. To meet these needs the state legislatures confer upon towns and cities peculiar powers of government. The special difficulties which beset the cities grow out of the massing of a large population. It is desirable, therefore, as population is increasing, to learn to meet and remove these special difficulties before they become general.

Suggestions. — In a country school it may not be

found practical to give full instruction about the government of cities, but in incorporated towns and cities this should be made a topic of extended observation and study, illustrating various points from local experiences. Take the city charter (or the statutes) and make a list of the powers which a city has the right to exercise. See, also, a copy of the city ordinances or laws. Who makes the city ordinances? What are some of the more important? Whose duty is it to execute the city laws? If a person is punished for violating a city ordinance, what court gives the decision?

CHAPTER VIII.

THE CHOOSING OF PUBLIC SERVANTS.

Selecting Teachers. — A school teacher is usually employed by a responsible board. There have been cases where a teacher has been elected by a popular vote; but this is not a satisfactory method. It is customary in popular elections to choose only those who reside within the district. Many school districts do not contain teachers, and the district is obliged to find a teacher elsewhere. It is better that there should be a class of persons who make teaching their business, that they may be specially fitted for their work. If they can be employed by school boards, they are encouraged to fit themselves; for if they do not find employment in one place, they can seek it in another. If they were required to gain a residence before becoming candidates, they would often be without employment.

Skilled Officials selected by Local Boards. — When a city is in need of a superintendent to manage its schools, a responsible board seeks out and employs one. A popular election in such a case is not satisfactory. A county needs a skilled superintendent for the country schools; and it is better to have a county board employ such an officer. A state with a hundred counties needs a hundred skilled educators, who will make the superintendence of country schools their business. These counties ought to have the wide world from which to make their selections. The plan of choosing the county superintendent by a popular election limits each county to candidates residing within its own borders. When a county superintendent, after becoming skilled in his work, is, by the fortunes of a popular election, removed from office, the entire state is deprived of his services. If the state should make it the duty of a county board to employ the county superintendent, the most skilful would be sure of employment. If they were not employed by one county, they would be by another. If a county needs a court-house, it does not select a builder by a popular election, but commits the selection to a responsible board. If the county should adopt the policy of selecting a skilled engineer to superintend road work, such an officer should be chosen by a county board, and not by a popular election. No one would think of such a thing as choosing a doctor by popular election to prescribe for the poor. A responsible officer does this. From these examples we may derive the general statement that where the government is in need of special skill in its service, it is best to secure this through some individual officer or appointing board.

Elections. — How shall the government secure responsible officers or boards? In popular goverments there is just one way, and that is by a popular election. In some of the states the people elect a governor, a legislature, and a few other state officers. All the other officers, except those of cities, are appointed by the governor and legislature, or by officers chosen by them. This is a centralized state government. The state officers are responsible to the people who elect them; and the local officers are responsible to the state officers who appoint them. But in most of the states, not only the state officers, but the local officers of the school districts, the townships, the towns, the cities, and the counties, are elected by the people of the locality. In the federal government, the President, the Vice-President, and the Representatives, are elected by a vote of the people, and Senators, by the state legislatures. The other offices in the federal government are filled by appointment.

The holding of elections is an important part of the business of government. A voting precinct should be small, as it is not convenient to travel many miles for the purpose of voting. A township is a convenient voting precinct for rural districts. Small towns and cities are voting precincts. Large cities are subdivided for voting purposes. Some of the local governments have elections for the choice of local officers at a different day from that of the general election. In these cases the officers who receive the votes of the electors count them in the presence of all who wish to witness the process, and declare the result.

Canvassing the Votes. — At the general elections of county, state, and federal officers, there are local officers

whose duty it is to hold the election in each precinct in the state. The laws of the state prescribe the manner of holding these elections. The officers are required to keep the polls open during prescribed hours; to receive the votes of all who have a right to vote, and to refuse the votes of others. After the polls are closed, the officers in charge canvass the votes, and make a list of all the persons who receive votes for any office, and of the number which they receive. Those who receive the greatest number of votes for local offices within the precinct are declared elected. In the case of the more general offices of the county, the state, and the nation, the lists are sent to a county board, whose duty it is to meet at a time specified by law, and canvass the votes. The county board declares the result of the vote for county officers, and sends the lists of votes for the more general officers to the state board of canvassers. The state board makes a final canvass of the vote for all the remaining officers receiving votes at the election, and declares the result. In some states the General Assembly canvasses the votes for the Governor and Lieutenant-Governor.

Election of President and Vice-President. — The people do not vote directly for the President of the United States, but vote instead for presidential electors. According to the Constitution of the United States, each state is required to choose as many electors as there are senators and representatives from the state. These electors are chosen at a general election held in November on each fourth year. The votes for the presidential electors are canvassed in the same way as are those for other state officers. The electors chosen by the several

states are required to meet in their respective states on the first Wednesday in December, and vote for President and Vice-President of the United States. Lists of these votes from the different states are sent to the President of the Senate of the United States; the votes are counted in the presence of both houses of Congress, and the person receiving the greatest number of votes for each of the offices of President and Vice-President, if a majority of all the votes cast, is declared elected. If no one receives a majority for President, then the House of Representatives proceeds at once to elect a President.[1] If no one receives a majority for Vice-President, the Senate chooses a Vice-President.

Summary. — Officers or public servants may be chosen in two ways, — by popular vote or by official selection. Where special skill is in demand, as in the case of a teacher, responsible officers make the selection. All legislators and representative boards are chosen by popular election, so are nearly all executive and some judicial officers of the state governments. But the federal officers, with the exception of the President, Vice-President, and members of Congress, are appointed. The holding of elections for presidential electors and members of Congress as well as state officers is under the state authority.

Suggestions. — Make a list of local officers chosen by popular election; a list of those appointed by a board. How are vacancies in local offices filled? How are the Governor and members of the state legislature chosen? How is the President elected? United States Senators? Representatives to Congress? How is an election held? This lesson is sometimes taught by holding an election

[1] See Constitution, pp. 227 and 228.

in the school. Some teachers have reported satisfactory results from a still farther application of the object method. They have organized in school all the local governments of the place. Pupils are chosen in the regular way to the various local offices. These fit themselves by special study for their respective duties and become sources of authority in their specialties. As a means of gaining a knowledge not only of elections, but of the whole subject of local government, some teachers, especially in rural districts, have secured the active aid of the local officers and of a large proportion of the parents; the school has thus become the centre of a co-operative study of civil government on the part of the entire community.

PART III.

THE ADMINISTRATION OF JUSTICE.

CHAPTER IX.

ANCIENT USAGES.

A GOVERNMENT may exist and do nothing for the education of youth; it may entirely neglect to provide public highways; it may do nothing for the poor and other unfortunate classes. All these things may be left to other agencies.

What a Government must do. — But there is one duty which the government cannot leave to other agencies. It must administer justice; it must punish the wrong-doer. If the government leaves to another agency the protection of life and property and the punishment of wrong-doers, then that other agency becomes the government. We call that a state of anarchy in which every man is permitted to do that which is right in his own eyes, and there is no recognized authority to preserve order and administer justice. There are many things which a government may do, and which a good government will do, besides administering justice, but so much it must do. There are states of society in which individuals avenge their own wrongs and maintain their

own rights; but in so far as this condition exists, it is a state of barbarism; civil government does not exist.

Justice in the Ancient Town, Hundred, and County. — Since the administration of justice is the one business in which government is always engaged, the agencies through which justice is administered are the oldest and most familiar of all governmental agencies. Our criminal laws, justices of the peace, constables, sheriffs, coroners, and juries may be traced back to the dim past in the history of our Saxon ancestors. We have seen that the oldest of our institutions is the township. One part of the business of the town-meeting among the early English was to administer justice between man and man. In this work they followed the good customs of old. In difficult cases the old men were called upon to state the custom as they remembered it, and the entire community gave voice in the decision. When the group of towns in a given locality united in a hundred court, the age and wisdom of a larger community were brought to bear on the administration of justice. To the hundred court came a reeve and four best men to represent each town, and twelve knights from the hundred. These all joined in the administration of justice. The shire or county court followed the model of the hundred court. To the shire court came the lords and knights from the shire, and representatives from hundreds, boroughs, and townships. In this court was to be found the united wisdom of the county. To it were taken cases at law which had proved too difficult for the hundred court. In all these courts, as well as in the higher courts held by the king's justices, the aim was to follow the customs

of the realm in the administration of justice. When a court decided a case, it was equivalent to a declaration that this was the custom applied to this case. The decisions of courts, therefore, were of great importance in determining the customs and laws which formed the basis of English justice. From this source we have the Common Law of England, which came to America with our English ancestors.

In the early courts of the town, the hundred, and the county, the large body of citizens who attended the court joined in the decisions. But in very early times, special duties came to be performed by special officers. Many of the offices thus originating have, through various modifications, come down to us, and are recognized in the titles of our familiar public servants.

Justices of the Peace. — Canute, the Danish king who began to rule in 1016, required all citizens to take an oath that they would not be thieves, or robbers, or receivers of such, and that they would fulfil their duty of pursuing the thief when the *hue and cry* was raised. This oath was exacted by other kings, and in 1194 Richard I. appointed knights in each shire, to enforce the oath and preserve the peace. These knights were called *conservators of the peace.* Their duties were at first ministerial rather than judicial; but in course of time they came to exercise judicial functions. By a law of Edward III., 1272, these *conservators of the peace* were empowered to hear and determine felonies. From this time their duties were chiefly judicial and their name was changed to Justices of the Peace.

Along with the common law and many English institutions which came to America, came also the office of

justice of the peace. In all parts of our country this officer and his court are most familiar. Like the ancient conservators of the peace, the justice still commands the peace in the name of the government. The conservator spoke in the name of the king; the justice speaks in the name of the state in which he lives. In some of the states the justice of the peace is chosen by popular vote of his township or county; in others he is appointed by the governor or some other officer, or by the legislature.

"Hue and Cry." — From very early times in English history it was made the duty of every citizen to pursue and arrest persons whom he saw in the act of committing a crime. The English government held the people of the locality in which the crime was committed responsible for the crime. If the criminal escaped, the town or the hundred had to pay the penalty affixed to his crime. One method of taking a criminal was by "*hue and cry.*" This custom began in the earliest times. When a crime was committed, it was the duty of any citizen who knew of it, and knew, or thought he knew, who committed it, to raise the *hue and cry* against the criminal. This was done by crying aloud, or blowing a horn, and giving chase to the supposed criminal. Any citizen who heard the *hue and cry* and did not join in the pursuit, was liable to be punished. In later times citizens were required to use horses in the chase. As the criminal went from town to town, and from hundred to hundred, the noisy crowd increased.

CHAPTER X.

MINISTERIAL OFFICERS.

Reeves. — Of the officers who serve our courts and execute their orders, the most familiar are the constable and sheriff. These, like the courts themselves, have come down to us from the distant past. In the ancient Saxon township, the head man was called the *tûn-gerefa* or *town reeve*. Where townships had developed into boroughs, the headman was called the head borough, or borough reeve.[1] In the hundred the headman was the hundred reeve. In the county or shire court the chief man was the shire reeve, which title was early shortened into sheriff. These officers in early times had a variety of duties.

The reeve in the town presided at the town meeting. In case of war or danger he marshalled the townsmen for battle. With the four select men he represented the town in the hundred court and in the county court. The reeve of the hundred performed like duties for the hundred. He presided over the meeting of the hundred court. He was the chief police officer, and probably in early times was commander of the hundred in war. The hundred reeve with twelve chosen men represented the hundred in the county court.

Sheriff and Bailiff. — As the power of kings and

[1] The early English community which formed around a strong or fortified place received the name of *bourg* or borough. Townships became boroughs when several of them were massed together, and came to be recognized as having peculiar rights and privileges. — *Freeman's Norman Conquest*, Vol. V. p. 302.

lords increased, the importance of these local officers diminished. The sheriff seems always to have been closely associated with the king. He was generally appointed by the king, and represented the king's government in the county, rather than the people's government. In the case of the headmen of the older and freer governments of the hundred and the town, we have not only a diminishing of their position and importance, but also a change of name. The lord's bailiff displaced in part the hundred reeve.

Constable. — With the Norman lords and kings from France came into England the name *Constable*, which was destined to fill an important place in English and American history. The name is from *comes stabuli*, companion of the stable, and may once have meant a hostler; but in the Norman period of English history it had the more dignified meaning of a commander of horse. The Lord High Constable of England was the chief military officer of the realm. The lords of the castles had constables as commanders of their horse. In striving to perfect their military systems, the kings appointed constables in the hundreds, to see that the laws for arming and training the militia were carried into effect. Constables were also chosen in the towns; and these officers took the place of the reeves in the town and the hundred. The constable of the hundred was called the *high constable*, and that in the town the *petty constable*. As the work of the hundred came to be done by the parish and the county, the high constable disappeared, and the petty constable remained as a local police and ministerial officer.

Judicial and Ministerial Functions. — The sheriffs,

constables, and bailiffs being chief officers of a court, or of a body of citizens exercising judicial functions, came themselves to hold courts, and to exercise judicial powers. There is a clause in Magna Charta, given by King John in 1215, forbidding sheriffs, coroners, constables, and bailiffs of the king to hold pleas of the king, or to try cases at law. The judicial business was passing more and more into the hands of the king's justices. At the same time the head officers in the older local assemblies, or people's courts, became known chiefly as servants of the new courts. They served notices, subpœnaed witnesses, arrested criminals, empanelled juries, seized and sold property, as they were ordered by the judge. These are called ministerial officers because it is their chief business to attend upon the court and obey its orders. The constable attends the court of the justice of the peace. As in England, so in America, the sheriff is the chief ministerial officer of courts held in and for counties. The mayors and police courts of our cities may be served by a marshal. United States marshals do the ministerial work of the United States courts.

Coroner. — The office of coroner has a somewhat peculiar history. The office seems to have been created by the kings, previous to the giving of Magna Charta, for the purpose of limiting the judicial power of the sheriff. The name is from *corona*, crown. The coroner appeared in the shires and some of the boroughs as the special crown officer. He held pleas in the name of the king. He had special charge of the king's business. As the power of the crown has declined in the English constitution, and entirely died out in America, the

office of the coroner has been restricted, so that the chief business left for him is that of holding inquests over the dead; and even this business is sometimes committed to justices of the peace. There is still a remnant of the old functions connecting the coroner with the sheriff, in the provisions made by statute that the coroner shall serve processes on the sheriff, and act as sheriff in case of vacancy in that office.

CHAPTER XI.

JURIES.

Ancient Origin. — The jury is an important agency in the administration of justice. In many nations there has been something like the jury system, but only in England, and in governments founded by Englishmen, has the system been fully developed and preserved. We cannot tell when the jury system originated in England. We find customs which had some influence in developing the jury as far back as our knowledge extends. In those wonderful town meetings of our Saxon ancestors there grew up a custom of settling difficulties as follows. An injured person would stand up before the meeting, and in a formal manner would state his charge against the accused. The accused person might deny in a formal manner the truth of the charge, and produce twelve witnesses of approved character who would join hands and swear with him to the truth of his denial; witnesses might also be produced on the other side. The object of this custom was to decide the case according to the facts.

Ordeal and Compurgation. — When this method failed, when witnesses were equally divided, or if for any reason the meeting or court were not able to reach a satisfactory decision, they resorted to other methods of determining the facts. Sometimes the accused person was thrown into deep water; and if he did not sink, he was held to be innocent. Or he was blindfolded, and compelled to walk over a space strewn with hot irons; and if he was not burnt, he was held to be innocent. Or his hands were thrust into hot water; and if he was not scalded, he was innocent. The theory was, that where man had failed to reach the facts by witnesses, God would in these ways indicate them. This method of trial was called trial by *ordeal.* The method of determining the facts by twelve sworn witnesses was called trial by *compurgation.* The twelve witnesses were called compurgators, or fellow-swearers. In either case, whether the trial was by compurgators or by ordeal, the final decision of the case rested with the organized meeting or court. The accused was condemned or acquitted by the voice of his fellow-citizens in town meeting; or, if the proceedings were in the hundred or the county court, the representatives of towns and manors in these courts decided cases in the name of the entire communities which they represented.

We have not in these customs the jury system; neither do we have much that resembles the jury. But there is this fact, which cannot be overlooked in the history of the origin of the jury: twelve men were accustomed to join hands and voices, and swear to the same thing in the presence of a body of citizens who were exercising the power of punishing crimes.

The Twelve Men of Ethelred. — There is evidence to the effect that King Ethelred (991) issued his orders to the sheriffs of the counties, commanding that they choose twelve lawful men in each hundred, whose duty it should be to present for trial before the hundred court all persons in the hundred suspected of crime. They were to do their work faithfully, and to accuse no man falsely. This, it will be observed, is quite similar to the work of our modern grand jury.

When William the Conqueror and his Norman army came into England (1066), and finally settled down to rule the land, the king was in great need of definite and accurate information as to the condition of his kingdom. He wanted to know how many estates there were in the realm; how many people there were on each estate; and what was the rank and condition of each person; how much property there was; and what were the customary services and rents. To secure the needed information on all these points, he ordered a general survey and census of the realm. One method employed for gaining information was to order his sheriffs to select twelve men of the neighborhood, who were required to give, under oath, the facts demanded.

Recognitors. — This method of gaining the information which the government needed, by twelve sworn witnesses of the neighborhood, was continued under other kings. The twelve sworn witnesses were called *recognitors*. As twelve men gave the government information concerning the ownership of the estates, it was but natural that the government should call upon twelve lawful men of the vicinity to assist in settling a case at law when the title to an estate was in dispute. This,

in course of time, was exactly what happened. When an estate was in dispute, one of the parties might apply to the court for a *recognition*. The sheriff was in that case ordered to summon four knights from the neighborhood. These four knights named twelve men who resided in the vicinity of the estate under dispute, and they were required to state under oath which of the two parties rightly owned the estate. If the twelve agreed, the case was settled; but if they did not agree, then others were summoned, till twelve men were found who would make oath to the same thing. This sort of trial was called trial by recognition.

Presentation for Trial. — Twelve men swearing to the same thing furnished the government information as to the number, rank, and condition of the people; and upon this information the government based its system of taxation and military service. It was but natural that the government should adopt the same method of gaining information as to the law-abiding or criminal character of the citizens. This, in course of time, the government did. Persons suspected of crime were presented to the court for trial by twelve sworn witnesses of the neighborhood. In the system of courts adopted by Henry II. (1166) provision was made for the regular summoning of twelve men from each hundred, and four from each township, a part of whose duty it was to present to the court persons for trial. Such a presentment was made by the oath of twelve men of the vicinity, charging the individual with a definite crime. The person was then tried by ordeal or by battle. If the ordeal failed to convict the person of the crime charged against him, he was, nevertheless, ban-

ished from the realm on account of the oath of his neighbors charging him with crime. We have in these laws a mixture of two methods of trial; witnesses were used to present the person for trial, upon their own knowledge of the case, and the ordeal was used to prove the validity of the charge.

Grand and Petit Juries. — Before Magna Charta (1215) trial by ordeal had been abolished throughout Christendom by the authority of the Church. In England, without any reference to this general action of the Church, a custom had grown up of substituting a jury for the ordeal in the trial of a criminal. This jury was called a Petit Jury, to distinguish it from the larger jury, which then received the name of Grand Jury. In the grand jury there were twelve lawful men from the hundred, and four from each township in the hundred. The exact number depended upon the number of townships in the hundred. In later times the grand jury came to consist of twenty-four persons. The number permitted to bring in an indictment or a presentment has always been twelve; and as this was only half of the jury of twenty-four, the number was changed to twenty-three, so that the indictment would be signed by a majority. This is, at present, the number of an English grand jury. In America the number is not the same in all the states.

Magna Charta and the Jury. — The history of the grand jury, or the jury of accusation, is simple; it has been subject to few changes. The trial jury is much more complex, and has undergone many changes. Magna Charta contains three allusions to the institutions out of which our trial jury has come. The first

provides that three varieties of civil cases shall be tried in the county court, by the king's justices assisted by four knights; and it is understood that the form of trial is by recognitions. We have seen that a recognition is had by summoning twelve recognitors who shall, under oath, agree to the same facts. The second clause provides that fines shall be assessed by the oath of honest men of the neighborhood. This, again, was by twelve witnesses, or recognitors, who made oath from what they knew of the case. The third is the part of Magna Charta most frequently quoted: "No freeman shall be taken or imprisoned, or disseized, or outlawed, or exiled, or anyways destroyed; nor will we go upon him, nor will we send upon him, unless by the lawful judgment of his peers, or by the law of the land." This is held to be a general statement of the principle out of which trial by jury has come, rather than any allusion to specific customs.

Trial by Battle. — We have seen that before the coming of the Normans, two methods of trial were common in English courts: trial by ordeal and trial by compurgation, or the sworn testimony of twelve witnesses on either side. The Normans, it seems, were accustomed to trial by ordeal, but were not accustomed to trial by compurgation. The Normans had one method of trial which was wholly new to the English. It was trial by battle. Two men would fight in the presence of the court; and the case was decided by the result of the battle. This method was offensive to the English; yet among the Normans it seems to have been the method in common use. The English, in towns and boroughs where they were massed together,

and were in a condition to preserve most of their ancient customs, retained their method of trial by compurgation. Trial by battle prevailed in the country where the Norman lords were supreme. In course of time this method was forced upon most of the towns as well, though the change was not made without a contest. If the English yielded to the more brutal Norman method, they at least held to the memory of their own more just and rational way. Two stories, preserved to us from this period of our history, give a vivid picture of this contest.

"At Leicester the trial by compurgation, the rough predecessor of trial by jury, had been abolished by the Earls in favor of trial by battle. The aim of the burgesses was to regain their old justice, and in this a touching incident at last made them successful. It chanced that two kinsmen, Nicholas, the son of Acon, and Geoffrey, the son of Nicholas, waged a duel about a certain piece of land, concerning which a dispute had arisen between them; and they fought from the first to the ninth hour, each conquering by turns. Then one of them, fleeing from the other till he came to a certain little pit, as he stood on the brink of the pit, and was about to fall therein, his kinsman said to him, 'Take care of the pit; turn back, lest thou shouldest fall into it.' Thereat so much clamor and noise was made by the bystanders and those who were sitting around that the Earl heard these clamors as far off as the castle; and he enquired of some how it was there was such a clamor; and answer was made to him that two kinsmen were fighting about a certain piece of ground, and that one had fled till he reached a certain little pit, and

that as he stood over the pit and was about to fall into it, the other warned him. Then the townsmen being moved with pity, made a covenant with the Earl that they should give him threepence yearly for each house on High Street that had a gable, on condition that he should grant to them that twenty-four jurors who were in Leicester from ancient times should from that time forward discuss and decide all pleas they might have among themselves." — *Green's History of the English People.*

The other incident is from the history of St. Edmundsbury, and gives an insight into the way in which the English method of trial by compurgation, preserved or regained in English towns, was extended to the surrounding country. The townsmen of St. Edmundsbury were living in the enjoyment of the right of trial by compurgation; while just outside the walls of the town the Norman method of trial by battle prevailed. A man by the name of Kebel was tried by battle, and the battle went against him, He was accordingly condemned and hanged just outside the walls of the town. It seems that Kebel's neighbors knew that he was innocent, and the townsmen said, "Had Kebel been a dweller within the borough, he would have got his acquittal from the oaths of his neighbors, as our liberty is." The monks who were lords of the estate were thereupon moved to extend the same liberties to their tenants.

The Jury comes from a Union of French and English Customs. — It would seem, if we viewed these incidents alone, that the English possessed the germs of the system of trial by jury, and that the Normans were

trying to destroy them; but the fact is that these kings from France did much for the establishment of the jury system. The method of getting all sorts of information which the government needed, by twelve witnesses from the neighborhood, was an ancient French custom. To England this was entirely new. Had it not been for this French method of inquest by sworn witnesses, we have no good reason to believe that the jury system would have been fully developed. When these foreign kings called to their courts twelve lawful men of the vicinity, to decide on oath who was the rightful owner of a piece of land under dispute, they did a thing quite agreeable to the English people, because it gave them a means of escape from the dreaded trial by battle, and was in accord with their own ancient customs; yet, from the standpoint of the kings themselves, it was simply an application of their own peculiar system. When these French kings required sworn witnesses of the hundred to present to the courts for trial such persons as were suspected of crime, they did a thing not out of harmony with English custom; for English kings had done the same before: yet to the Frenchman it seemed an application of his own method of inquest by sworn witnesses. When the courts established by Norman kings took the person presented for trial by the oath of witnesses, and hurled him into deep water as a further test of their guilt or innocence, they did what both Frenchmen and Englishmen were accustomed to see; yet to Frenchmen and Englishmen alike this method was becoming unpopular. And when, in 1215, the year of Magna Charta, the Church decreed that there should be no more trial by ordeal, the English-

men were ready with an ancient custom, preserved in their towns through ages of revolution, and seemingly well-fitted to take the place of trial by ordeal. The Frenchman, at this point left to himself, would have substituted trial by battle for trial by ordeal.

But these kings from France, on account of their national system of inquest by witnesses, were now ready, when the ordeal was abolished, to put in its place twelve sworn witnesses from the neighborhood of the person charged with crime, whose duty it was from their personal knowledge of the facts, either to affirm or to deny the charge. If the twelve persons agreed, the case was decided upon their oath; if they did not agree, others were added, till twelve were found who would make oath to the same thing. When this system was established by foreign kings, the Englishman had no farther use for his venerable custom of trial by compurgation; since the French inquest had in it all that was valuable in the English method. It was this union of French and English customs which gave to England the jury system. The national system of inquest by recognition would never have produced the jury, if it had not been for the strong and persistent customs of local government in the English towns. The local customs of England would not have been organized into a national system, had it not been for the French inquest.

Jurymen as Witnesses. — It will be observed that the twelve recognitors who take the place of the ordeal are not jurymen in our sense of the word; they were witnesses, rather; they were chosen because of their personal knowledge of the case; they decided the case upon that knowledge; they received no information

from others. In the time of Henry III. special witnesses were sometimes summoned, and united with the jury in their verdict. Mention is made by the Year-Book of Edward III. (1327) of special witnesses being joined to the jury, to give them information; but they did not join with them in the verdict.

A more important change occurred during the reign of Henry IV. (1399–1413). All testimony was presented in open court, so that the judges might exclude improper evidence. This change paved the way for the development of the rules of evidence in the common law of England and America; it also "opened the floodgates of forensic eloquence" on the part of advocates.

Jurymen forbidden to testify. — After this time no one can fail to recognize the modern jury. Witnesses were examined and cross-examined, and the judge instructed the jury as to the sort of evidence to be used in making up their verdict; attorneys argued the case before the jury; yet there were still left some of the characteristics of the ancient recognitors and compurgators. Jurors were still chosen because of their supposed knowledge of the case; they still used their own personal knowledge in addition to the testimony received in court in making up their verdict. It was not until the time of Queen Anne, a hundred years after the founding of Jamestown, that the English courts held that if a juryman used his own knowledge in making up his mind in the case, he should be sworn as a witness and examined in open court. There were later rulings to the effect that a juryman should not be a witness, and that the case should be decided entirely upon evidence presented in court.

The jury system was established in America by Englishmen, and is found in nearly all the states.

CHAPTER XII.

HIGHER COURTS IN ENGLAND.

THE township, the hundred, and the county courts grew out of the habits and customs of the people. With the growth of the power of kings and lords the king and his council came to exercise important judicial powers; while local lords held courts of their own, and often gained control of the local popular courts.

The King's Justices. — The kings were disposed to increase their power by extending their judicial functions. This was often quite agreeable to the people, because they had already fallen into the hands of lords and local tyrants. A justice from the king's council, empowered to hold a court for the people, was hailed by them as a deliverance from these local tyrants. The king and his council decided cases brought before them from the lower courts, and justices from the king's court went through the shires of England, holding courts and administering justice in the king's name. England had come to be occupied by a mixed population; and there was naturally a great diversity in the local customs of the people's courts. The king's judges had excellent opportunity to learn all the good customs of the realm; and the king and his council could embody these good customs in general orders or laws. In this way

the courts and laws were reduced to a uniform system throughout England. The king came to be looked upon as the source of all law, because he made known the laws, and the law was administered in his name; yet, as a matter of fact, most that was excellent in the laws of England came from the good customs of the people, developed in their local courts.

A clause in Magna Charta requires the king's justice to hold court four times each year in each shire. These courts gradually absorbed much of the judicial business done by the county and hundred courts. In course of time the hundred court died out, the county court was much changed, and justice came to be administered in England by the high courts of the king, by judges appointed by the king, and by justices of the peace chosen in the counties.

About the only thing that remained of the ancient people's court was the jury system. The jury preserved the true representative feature of the people's courts. The decision of a jury carried with it, in the mind of the people, the condemnation or acquittal of the entire community.

Rights of Jurymen.—As kings became arbitrary and despotic, they found ways of compelling juries to yield to their will, and to decide cases contrary to their own judgment and to the usages of the community. Jurors were overawed, fined, imprisoned, and in many other ways punished, for giving verdicts contrary to the wishes of the king. In the contest for liberty which took place during the century in which America was settled, the exemption of jurymen from punishment for their verdict was secured by act of Parliament.

The machinery which had through centuries been developed in England for the administration of justice, came to America with the English settlers, and with some modifications is still preserved. If England's great historian could see in the little town meeting of our Saxon ancestors the Parliament of England and all the institutions of English liberty, surely the American ought to see in a clearer light the sources of our own freedom in those little people's governments of the remote past. America was founded by Englishmen who were trying to break away from despotism and return to the better ways of the past. They left behind them the customs of tyranny, and started anew with the little community governed by the people. Out of these little people's governments have been built the state and the nation without the intervention of king or lord.

Summary. — The agencies for the administration of justice are of ancient origin. The common law grew out of the efforts of courts to apply the customs of the past to the settlement of present difficulties. The office of justice of the peace came from a sort of police officer, at first called a conservator of the peace, who in later times was empowered to try petty crimes, and was called a justice. The constable was an officer introduced into England by the Norman kings. He assisted in enforcing the laws for training the militia, was a police officer and servant of the justice's court. Sheriffs and coroners were officers in the county court. In early times their business was partly judicial. As the travelling justices from the king's court came to do all the strictly judicial business, the sheriff remained as

the ministerial officer of the court. The coroner still holds inquests over dead bodies. The habits and customs out of which the jury has come are as ancient as anything we know of the Saxon race. The preservation of those ancient customs and their development into what is known as the modern jury, is due to a peculiar combination of Norman and English customs. The grand jury has suffered little change from early times. The trial jury has been subject to many changes. With the growth of the power of the king in England the high courts of the crown came to dominate all the lower courts.

Suggestions. — In early times the hundred was made responsible for the crimes committed within its limits. What government is here responsible for the punishment of crimes? Can you give a case where the government was sued for failure to protect property? Does the state at large meet the expenses for trying and convicting criminals, or does this burden rest upon the county in which the crime is committed? The justice of the peace in early times was a police officer; does he still have some police duties? What is meant by "peace officers"? Name the peace officers of the vicinity. It was the duty of our ancestors to raise the hue and cry against a thief. What is now the duty of a citizen who sees a person committing a crime? What is meant by the term "ministerial officer"? Give illustration from the experience of local constables, sheriffs, or marshals. Useful lessons may be learned here from these officers or from the books which they have to direct them in their duties. How are grand jurors appointed, and what are their duties? How many jurors required for a

grand jury? How are trial jurors selected, and what are their duties? Illustrate from local facts.

CHAPTER XIII.

STATE COURTS: LOWER COURTS.

MULTITUDES in America live to old age without having anything to do with courts of justice; they are not sued, nor do they sue any one; they are not called as witnesses, nor are they summoned as jurymen. Courts seem to such persons to be kept up for the benefit of others. But it may well be doubted whether any persons are more benefited by courts of justice than those who have nothing to do with them. That they are permitted to spend their days in peace and security is due to the fact that government maintains all around them efficient agencies for preserving order and enforcing justice.

Importance of the Lower Courts. — Each state in the Union has its own laws and its own agencies for enforcing them, comprising at least three grades of courts. The lowest are held by justices of the peace, or by mayors or police judges of towns and cities. These courts are near the people. They attend to the punishment of petty crimes, and to the settlement of minor cases at law. A large part of the peace and good order of society depends upon the efficiency of these lower courts. If the beginnings of crime are promptly and justly punished, great crimes are less likely to occur. From these lower courts the masses of the

people learn what the law really is. The legislature may make and publish laws; but the force of a new law is not fully known until it is applied by a court to particular cases. Through justice's, mayor's, and police courts, and through the action of juries, more than through any other means, do the people become acquainted with their legal rights. A thorough knowledge of what the courts will do tends to diminish the business of courts. If it is reasonably certain that a crime will be promptly and justly punished, the crime is not likely to be committed. If men can know in advance how the courts will decide a disputed claim, they are likely to settle the case themselves, without the annoyance of a lawsuit.

The Power of the Justice of the Peace. — The justice of the peace seems to be a feeble officer; yet he has behind him all the power of the state and of the nation. If his lawful authority is resisted, he may call upon the constable and all able-bodied men of the vicinity to aid him. If these are not sufficient, he may call to his aid the sheriff, who may muster all the able-bodied men of the county. If these do not suffice, it is the duty of the sheriff to call upon the governor of the state for aid. If the governor with the state militia is not able to overcome the resistance, the state authorities may call upon the President of the United States for assistance. Thus it appears that behind the justice, the constable, and the local peace officers, there is great power. A sensible man, therefore, will not take the trouble to resist.

Courts of Record. — Magna Charta provides that the king's justices shall hold courts in each county four

times each year. In all the states, courts of record with extensive jurisdiction are held in each county. Some of these courts are held by local county officers, and others by district or circuit judges, who go from county to county. In either case, it is the business of the county government to keep the records of the courts. To do this work, the county provides a special officer.

The law requires the justice of the peace to keep a record of the proceedings in his court. He is his own clerk. The government, however, does not place much reliance upon his records: his court is not called a court of record. The most valuable of his records may be filed with the clerk of the county court. For instance, X may bring suit against Y in a justice's court, and may secure a judgment against him. It may be that Y has no property at the time which may be lawfully seized to satisfy the claim. If, however, within ten years, or a time specified by law, Y should acquire property, it may be seized to satisfy the judgment. A record of this judgment may be a thing of special value to X. To preserve this valuable record, some at least of our states provide that X may have a copy of the judgment sent to the clerk of a court of record at the county seat, where it is entered upon the records of the higher courts. Such a record has the same value as if the case had been decided by a court of record and the record had been made in the ordinary way. If the record is left with the justice alone, the time is soon passed within which the government will enforce the claim.

These records of courts may be of value to others besides the parties to a suit. A title to a piece of land

may be rendered imperfect by a judgment against the owner. One who buys land should inform himself whether there are any records in the courts which will make the title imperfect. It is desirable, therefore, to have one place where all records affecting the title to property may be found. The court-house of the county is a convenient place to keep such records.

Division of Judicial Business. — The courts of record held in the county may attend to three sorts of business, — the punishment of crime, the trial of civil cases, and probate business. We have seen that justice and police courts may punish petty crimes. In case of more serious crime the suspected person may be arrested by order of the justice, and be brought before him for examination. Witnesses may be summoned on both sides; and, if the justice finds sufficient evidence to warrant the government in holding the accused for trial, it is his duty to send him to the county jail, to be kept till the meeting of the higher criminal court, unless he gives bail for his appearance, as he is allowed to do, except in the case of a few heinous crimes. His case is next brought before the grand jury,[1] which assembles at the time of the meeting of the criminal court. The grand jury examine the evidence against the person, and if they deem it sufficient, find an indictment against him. Upon this indictment he is presented to the court for trial. For the trial a petit jury is impanelled, which hears all the evidence, the arguments of attorneys, and the instructions of the court, and upon this decides the

[1] The grand jury may be dispensed with in some of the states.

question of the guilt or innocence of the person accused. Criminals are punished by fine or imprisonment, or both. In most of the states murder in the first degree may be punished by death.

In criminal cases one of the parties to the suit is the state. An attorney is chosen whose duty it is to conduct the case on behalf of the state. The attorney for the state assists the grand jury in getting evidence and in making out their indictment, and appears against the prisoner at the trial. If it is an important case, special attorneys may be employed by the state to assist in the trial. In case of punishment by fine, the money goes to the government. The aggregate fines collected in punishment for crime cover but a small part of the expense incurred by the government.

Civil Suits. — A civil suit is one arising between citizens, to enforce a contract or some real or supposed right. The party bringing the action is called the *plaintiff*, and the party against whom the action is brought is called the *defendant*. In a civil suit there is no use for a grand jury; the case is brought at once before the court. In the trial, a petit jury may be called to decide questions of fact. It is the policy of the government to require the parties to a civil suit to pay the special expenses. Sometimes the court divides the costs between the parties; more frequently, however, the costs are taxed to the one who loses his case.

Probate Business. — Probate business comprises the proving of wills, the settlement of estates and matters of guardianship. The law makes special provision for guarding the rights of minor heirs. If there is a will, it must be presented to the proper court, and proved

according to the forms of law. Administrators and executors are appointed by the court, and instructed concerning the performance of their duties. Guardians are appointed, and their reports examined and passed upon. All this business may be attended to, and no suit arise. There is a suit in a court of probate only when a dispute arises between some of the parties interested, and an action is brought to determine their rights.

CHAPTER XIV.

STATE SUPREME COURTS.

BESIDES the justice's and police courts, and the courts of record held in counties, there is in each state a supreme court, or court of final appeal. It is presided over by a chief justice who is assisted by associate judges. A case tried in a justice's or police court may be appealed to one of the courts of record in the county. From these courts an appeal may be taken to a higher court of appeal, or to the supreme court. Cases are seldom brought before the supreme court except by appeal from the lower courts; and in hearing appeals the supreme court does not generally try the case anew, but reviews the action of the lower courts, and corrects any errors at law which may have been committed. This court interprets the constitution and laws of the state, and all the lower courts in the state are required to follow its decisions.

Reports. — The records kept by the clerk of the court in the counties simply give the outline history of each

case. These records are open to the examination of the public, but are not published. The records kept by the clerk of the supreme court are much more elaborate. The judges give their decisions in writing, and the case is explained and argued at length. Often the judges do not agree. A majority may unite in giving the decision, and a minority may file a dissenting opinion.

Besides the clerk, the supreme court has another officer, called the reporter, whose duty it is to prepare for publication the decisions of the court. The reports of the supreme court are published for the benefit of the lower courts, which are required to follow them in their decisions, and for the use of attorneys and others interested in the administration of justice. These reports form a large part of an attorney's library.

Courts interpret Laws. — The courts interpret the laws and apply them to special cases. In this work they virtually make law. The statute may be general and indefinite; a special case under the statute is brought before the court, and it becomes specific and definite. The decision is followed by other courts; and, as the facts are never just the same in two cases, the successive decisions of courts tend constantly to explain and amplify the law. We have seen how the common law of England was made up entirely of decisions of courts. The same tendency exists under every kind of practice.

In all the states and territories of the United States there is a rich field for the accumulation of experience in the administration of justice. These supreme courts are all independent of each other, though engaged in substantially the same business. The constitution and laws are similar in all the states; and in the difficult

work of applying the laws to the special cases each court has the benefit of the wisdom and experience of all the others. The reports of the decisions of the supreme court in each state, though binding only on the lower courts of that state, serve as guides to all the courts in all the states.

CHAPTER XV.

FEDERAL JUDICIAL BUSINESS.

THE great majority of the cases arising in state courts cannot be tried in a court of the United States: they relate to matters over which state governments have entire control; they do not involve any question under the Constitution or laws of the United States. A clause in the Constitution requires judges in state courts to recognize the Constitution, laws, and treaties of the United States as the supreme law of the land, even though the constitution and laws of the state be in conflict therewith. Another clause provides that the judicial power of the United States shall extend to all cases arising under the Constitution, laws, and treaties of the federal government. The Constitution of the United States expressly prohibits the states from doing certain things.

Appeals from a State Court. — If a case has been tried in the courts of a state, and has been passed upon by the State Supreme Court, and if the validity of a law or treaty of the United States has been drawn in question, and the state court has decided against the

validity, or, if there has been drawn in question the validity of a state law on the ground of its being in conflict with the Constitution, laws, or treaties of the United States, and the state court has decided in favor of its validity, such a case may be appealed to the Supreme Court of the United States. A suit in a state court in which the plea is made that a statute of the state impairs the obligations of a contract, or that it is an *ex post facto* law, or that the state has issued bills of credit, or made something besides gold and silver coin a legal tender in payment of debts, may be appealed to a federal court.

Removals from a State Court. — A suit commenced in a state court against an alien or a citizen of another state, may be removed for trial to a federal court in case the value involved exceeds five hundred dollars. A suit in a state court in which a citizen of another state is a party, may at any stage before the final decision be removed to a federal court, if the party from another state certifies his belief that through local prejudice he cannot secure justice in the state court. Removals from state courts may likewise be had in cases involving certain classes of United States officials, and in cases involving the title to property granted by the federal government, or the title to land granted by another state.

Admiralty and Maritime Cases. — A state cannot punish a crime committed beyond its limits. The so-called admiralty and maritime jurisdiction of the federal courts includes, first, all crimes committed on the high seas and on the bays, rivers, and inlets where the tides ebb and flow. Second, all cases relating to prizes and

captures at sea, and cases of injury arising in the navigation of the sea, or the great lakes and rivers, even those which are wholly within the boundary of a state. Third, cases respecting "contracts, claims, and services purely maritime, and touching rights and duties appertaining to commerce and navigation." In most admiralty and maritime cases the federal courts have exclusive jurisdiction.

Cases exclusively Federal. — Besides cases cited above, the federal courts have exclusive jurisdiction in the following: first, suits for penalties incurred under the laws of the United States. Second, cases arising under the patent and copyright laws of the United States. Third, cases affecting ambassadors, other public ministers, and consuls. Fourth, cases in which a state is party. The two last classes are carefully guarded. A case affecting an ambassador or a public minister or consul might endanger the peace of the country. When the Constitution was framed, there were boundary disputes between states which threatened to end in civil war. Hence, in these few cases of supreme importance the Constitution excludes even the other federal courts, and provides that the Supreme Court, the highest court in the land, shall have exclusive jurisdiction.

CHAPTER XVI.

FEDERAL COURTS.

Commissioners of the Circuit Courts. — For the trial of cases arising under the Constitution and laws of the United States, the federal government maintains

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Commissioners of the Circuit Courts. — For the trial of cases arising under the Constitution and laws of the United States, the federal government maintains

a system of courts similar to those maintained by the several states. The most widely distributed of the judicial officers of the United States are the commissioners of its circuit courts. A law of the United States empowers each circuit judge to appoint as many discreet persons as he may deem necessary to serve as commissioners of the circuit court. These commissioners are required by law to perform various duties, the chief of which are assisting the district and circuit courts in taking evidence to be used in the trial of cases, and arresting and holding for trial persons accused of crime against the United States.

State Officers serve as Commissioners. — As a justice of the peace may arrest, examine, and commit for trial persons accused of crime against the state, a commissioner of the circuit court of the United States does this work for the federal government. Circuit judges may appoint as many commissioners as they deem necessary, but a large number would not be necessary except for this service. It is desirable to have an officer in every part of the country, with authority to arrest and hold a criminal. A few hours, or a few minutes, may make a great difference in catching a criminal. For this occasional service a law of the United States provides that in addition to the commissioners of the circuit courts, who have this as a special duty, any judge or magistrate of either state or federal government may order the arrest of a person charged with crime against the United States. This may seem to be in conflict with the statement that the state government has nothing whatever to do with the punishment of a crime against the federal

government. There is, however, no real conflict between the statements; for a state officer, when he arrests a person for a federal crime, is acting, not as a state officer, but as a federal officer. If a bank is robbed, the suspected person is accused before a justice of the peace, is arrested by his order, examined, and sent to jail. If the United States mail is robbed, the suspected person may be accused before the same officer, and treated in the same way. But in the latter case, the justice is not acting as a local township or county officer; he is acting as a United States officer; he has for this purpose the powers of commissioner of the circuit court of the United States. In this service he is responsible to the federal government alone; the state government has no power or control over him.

We have, then, two governments, with officers in almost every township in the land, empowered to seize any person and cast him into prison. It is well that this is so. The good order of society requires that violators of law, state or federal, shall be punished. To do this, the government must have power to seize and hold for trial any person against whom there is evidence of crime. In this way innocent persons are sometimes sent to jail. Any one who deems himself unlawfully imprisoned, may apply to either a state or a federal court for release. If, on examination, he is found to be lawfully held, he is remitted to jail, otherwise he is set free.

Habeas Corpus. — This right of a person deprived of liberty by any officer or person, to apply to a court for relief, with the corresponding duty of the court to grant a hearing, is called in our constitutions the privi-

courts are required to recognize the Constitution and laws of the United States as the supreme law of the land. In ordinary cases there can be no appeal from a state court to a federal court, yet, in certain special cases, there may be an appeal, or a removal. The federal courts have as their special function the interpretation and application of the Constitution and laws of the United States, and the punishing of crimes against the federal government. In the federal system there are (1) Commissioners having some judicial functions, (2) District Courts, (3) Circuit Courts, and (4) the Supreme Court. There are, besides, courts for the District of Columbia and the Territories, and a Court of Claims.

Suggestions. — A knowledge of the courts furnishes a key to a knowledge of the government. The courts interpret the constitution and laws, and determine the relations of the different parts to each other. Cases at law, noticed in the study of local government, may here be reviewed, and agencies of the court be made more prominent. If the vicinity furnishes instances of the courts ordering officers to perform their duty, these should be used to illustrate the connection of the courts with the execution of the laws. For instance, the trustees of a county were ordered by a District Court of the United States to vote a tax for the payment of bonds on pain of imprisonment for contempt. A history of such a case, giving the leading facts, should fix in the mind important lessons. Do you know of cases where local officers have been ordered to desist from action? Give the history of a criminal case in a Justice's Court; a civil case; a preliminary

examination; and extend the history through the grand jury and the higher Criminal Court. Give the history of a case appealed from the lower courts to the Supreme Court, or the highest Court of Appeal in the state. Consult the attorneys of your acquaintance, and learn, if you can, the history of a case appealed, or removed from a state court to a federal court. What do you know of the Dred Scott case? The Virginia Bond case? In city schools, special facts illustrating city courts should be selected. In the study of courts and their work, more questions may be asked than can be answered. It should be remembered that the object of the study is not to make lawyers, but to give a knowledge of the government. Study actual, rather than supposed cases. The study of the courts and their work is more difficult than some other topics, and it may be wise for younger classes to defer the special study and illustration of some of the chapters.

PART IV.

FEDERAL EXECUTIVE BUSINESS.

CHAPTER XVII.

THE POSTAL SERVICE.

IN the previous chapters the business described has been chiefly performed by state governments, or by local governments within the state. There are certain kinds of business performed entirely by the federal government. The most familiar of these is the postal service.

Origin of Postal Service. — Governments in early times provided means of communication between government officials; but the carrying of private letters by the government is quite modern in its origin. In England this did not take place until about the time of the founding of English colonies in America. Before the government undertook the distribution of intelligence for individuals, this business was done by private enterprise.

Massachusetts, Virginia, and New York. — In 1639 the General Court of the Colony of Massachusetts ordered that the house of Richard Fairbanks should be the place for the receiving of all letters from beyond the sea. This is the first notice of any act of government on the subject in America. Fairbanks was allowed a penny for the delivery of each letter, and was made answerable for negligence. Previous to this time,

when a ship landed in Boston, it was customary for families to send some one aboard to receive their letters. Letters not delivered from shipboard were spread out on a table, at the nearest coffee-house. Persons from the country would send in to the coffee-house and get their letters. The first comer would carry out all the letters for his locality, and deliver them himself, or leave them with the minister, or at an inn. Thus a rude postal system grew up; and it was used not only to deliver letters from the port, but for communication between towns.

In Virginia, the first law on this subject was passed in 1657. It required each planter, on pain of forfeiture of one hogshead of tobacco, to convey dispatches as they arrived to the next plantation. This law is proof of the prevailing custom of delivering letters from neighbor to neighbor; the law undertook to compel the planters to be still more neighborly. The colony of New York established a monthly mail to Boston, as early as 1672.

English Supervision. — The English government did nothing for the postal system in America until 1704, when the office of postmaster-general for America was created. A law of Parliament regulated the rates in America. Not much was done towards the development of an efficient postal system until Benjamin Franklin was made deputy postmaster-general, in 1753.

Postmaster-General. — Franklin had for many years been postmaster of Philadelphia. He visited nearly all the offices then in the country, and so improved the service that, in a short time, the revenues paid all expenses, and furnished a surplus to the British treasury.

For twenty years the business prospered in his hands; but on account of his active opposition to English tyranny, he was removed from office in 1774. With the removal of Franklin, the English system collapsed, and postal business for a time was kept up only by private arrangement.

Congress takes Control. — In 1775 the Continental Congress appointed a committee to devise a postal system for the colonies. Franklin was unanimously chosen postmaster-general. When the United Colonies became the United States of America, by adopting the Declaration of Independence, in July, 1776, there had been in actual operation for the space of one year a general postal system. The Articles of Confederation, adopted near the close of the Revolutionary War, recognized the maintenance of the postal system as a part of the business of Congress. When the Constitution was adopted, in 1789, Congress recognized the Postoffice Department as already existing. No formal statute was ever passed creating this department. In 1829 Jackson first invited the Postmaster-General into the Cabinet. The Postoffice Department, although the oldest in the government, was the last except the Department of the Interior to be represented in the Cabinet.

It is difficult now to get into any place in the civilized world where it is not possible, for a trifling sum, to communicate with friends by letters promptly carried and delivered. Nearly all the civilized nations of the earth are leagued together in a postal system. The Postmaster-General, with the concurrence of the President, may make postal treaties with foreign countries.

Division of the Business. — It is not possible to give

the exact number of postoffices in the United States. Offices are being made and unmade almost every day. For the management of this vast business, the Postmaster-General has associated with him three assistants, and the work is systematized and divided between them. If one has a question about scales or the weight of mail matter, he corresponds with the first assistant Postmaster-General. If the question relate to a contract for carrying the mail, the correspondence is with the second assistant; while the third assistant attends to the business of furnishing stamps, envelops, etc.

The officers required to carry on the postal business of the country secure their places by appointment. The more important places are filled by the President, with the advice and consent of the Senate. Minor places may be filled by the President or the Postmaster-General, without the consent of the Senate. In the offices where large numbers are employed, the appointments are made by competitive examinations.

Salaries. — The highest salary paid to any one in the postal service is $8,000. This is the amount received by the Postmaster-General, and by the postmaster of New York. The compensation of other postmasters is graded, according to the business of the office, from $4,000 down to less than $5.

Classification of Mail Matter. — Under our present laws there are four classes of mail matter. The *first* class consists of written matter, and matter in sealed envelops, or packages. The *second* class consists chiefly of newspapers and magazines. To encourage the diffusion of knowledge, this class of mail matter is carried from the office of publication at a very low

rate. It sometimes happens that the mailing of a newspaper by a person who is not the publisher costs as much as the subscription price including the postage. The *third* class includes all other printed matter. Under the head of *fourth* class may be found various sorts of merchandise.

Competition with Private Business. — There has been a tendency in the postal service to widen its sphere. In ancient times the flying post-rider carried nothing but messages of the government. Gradually he assumed the business of carrying private messages. This brought the government into competition with private individuals who were doing the same sort of business. Then the government claimed the monopoly, in order to be able to give to the entire country a uniform, cheap, and efficient mail service. Men could make a fortune carrying the mail between New York and Philadelphia at government rates. The government does not allow private individuals to compete in the carrying of letters; but if you wish to send a book, you may take your choice between the postal service and an express company. There is, therefore, still some competition between the government and the express companies. The government is also engaged in the manufacture of envelops, and thus comes into competition with another branch of private business. Banks furnish accommodations for the sending of money to distant places. The government provides for registering letters, and opens a money-order department, and thus successfully competes with the banks in this business. In England, greatly to the convenience of the people, the government has provided a system of

postal savings banks. The English have likewise a system of postal telegraphy. It is not unlikely that both of these measures will early be introduced into the American postal system.

It will readily be seen that the postal business could not be done so satisfactorily by the separate states as by the federal government. It is a business which, from its very nature, involves business relations with all parts of the country and all parts of the world. It belongs therefore to general, rather than to local, government.

Summary. — Before there was a general government for the English colonies in America there was an intercolonial postal system. The Continental Congress made Franklin postmaster-general in the same year in which it made Washington general of the army. After the adoption of the Constitution Congress did not establish a new postal system, but organized and regulated the system already established. The postmaster-general became a member of the Cabinet in Jackson's administration. The history of the postal service shows a gradual assumption on the part of government of business earlier done or attempted by private enterprise.

Suggestions. — At this point it may be well to have the class read the Constitution of the United States. It will be found difficult to study the federal government in a direct and personal way; yet this should be attempted as far as possible. The postmaster may give facts illustrating his business, and from him may be obtained printed directions from the postmaster-general. Why should not the postal business be controlled by the states? Are there reasons why the postmaster

should not be elected by the people of the locality? Give facts learned from parents or aged persons about the history of the postal service. What do you know about the franking privilege? About Rowland Hill? On St. Patrick's day the police in New York City would not divide the procession for the accommodation of the travelling public, but instantly on the appearance of a mail-cart the procession was divided. Why? Do you know of suits growing out of violations of the postal laws? In what courts are the suits brought? What do you know about the Star-route suits?

CHAPTER XVIII.

MONEY.

In a well-filled pocket-book, one may find coins made of four or five different metals, together with four kinds of paper bills, all of which are used as money. The word "dollar" or some word denoting some fraction of a dollar is found on each piece; also the words "United States."

One Measure of Value for the World. — It is convenient to have the same kind of money for all parts of the country. The things which are in every-day use come from remote parts of the world. They are bought in exchange for money. There is much to recommend the plan of having one system of money for all the commercial nations of the world. Thus far, it has not been found practicable to adopt such a system; but it is entirely practicable to maintain one system for all the states of the Union. This is done by the federal gov-

ernment taking entire charge of the monetary business, and taking from the states the power to make any laws which will in any way affect the standard of values.

Origin of Money. — It is probable that in the earliest times governments had nothing to do with the selection of a commodity to be used as money. People, without any aid from the government, selected whatever valuable thing was most convenient, and used it in setting prices in their exchanges. In this way, all sorts of things have been used as money. Out of the multitude of the things which have been thus used gold and silver survive. These are used for money just as iron is used for plows, wool for clothing, and wheat for bread, not, primarily, because of any statute made by governments, but because of their fitness for the use. Governments have recognized and adopted what the common sense of mankind had already fixed upon as the best measure of value.

Coinage. — In early times gold and silver were weighed out in exchange. The knights of the middle ages carried scales at their side for the purpose of weighing the silver. But silver is so mixed with other metals, that it is often difficult to determine how much there is. Persons who become skilled in assaying and mixing gold and silver have great advantage over the rest of the community. To protect the community from being defrauded by skilful assayers, it is desirable to have the government interfere, and provide for assaying and dividing the metal into pieces convenient for use. The object of the stamp is to make it evident that the work has actually been done by government officers. It is the aim of the government to adopt such a stamp

and employ such methods as will make counterfeiting difficult.

Money of the Colonists. — The first English colonists in America were obliged to live in that rude, primitive condition, in which some more bulky form of property is better suited for a medium of exchange than are gold and silver. Tobacco, furs, wampum, salt, codfish, cattle, and other things were at different times and in different places used as money; and these various kinds of extemporized currency were recognized by the colonial governments.

In course of time the accumulation of wealth in the colonies was such, that they could command a portion of the silver of commerce. The silver which came to them was largely in Spanish coins. The first effort at coining in this country was made by the colony of Massachusetts, in 1652. The English government did not allow the colonies to coin money. They were expected to use English coins, and to trade only with England. Not much was done in the way of coining money in this country until the Revolutionary War. The colonists had various disastrous experiences in their attempts to make money out of paper.

The Money of the Revolution. — With the opening of the Revolutionary War the various colonies came into the possession of full power to do whatever they pleased in the way of monetary legislation. Under the stress of the times, the Continental Congress fell into the habit of issuing paper money; this was made by the states a full legal tender in the payment of all debts, public and private. One result was that no money of real value could remain in circulation

among the people. The people were left to the distressing experience of carrying on a great war with a worthless currency. Before the war had ended the money had become entirely valueless. Pelatiah Webster, the financial historian of the Revolution, said of this money, "We have suffered more from this cause than from every other cause or calamity." The Articles of Confederation assumed that the separate states had a right to coin money, and that the Continental Congress might also provide for its coinage; but they expressly provided that Congress alone should have power to regulate the alloy and the value of all coins made by either state or federal government.

Constitutional Provisions. — The Constitution of the United States, adopted in 1789, provides that the federal government alone shall have power to coin money. The states are expressly prohibited from coining, and from making anything but gold and silver a legal tender in the payment of debts. This makes it possible always to secure a uniform currency for all parts of the country. Under our present Constitution, the federal government has had power enough to give to the people the best that the world affords in the way of financial legislation. It has not always exercised that power in such a way as to save the masses of the people from injury.

One of the real difficulties in the financial management on the part of the government arises from the fact that different materials are used for money. This results from the necessities of the case, which are beyond the control of government.

Standards of Value. — In primitive society the peo-

ple are too poor to use any metal as money. When metals are introduced, the baser metals, such as iron and copper, are used first, and are made standards for setting the price of commodities. As wealth increases, they become inconvenient, and silver is made the standard for setting prices. With a still farther increase and distribution of wealth among the people, silver becomes inconvenient, and gold is made the standard of value. These changes are, in large part, beyond the control of government. The English government has tried to introduce the gold standard in India; but the people of India are too poor to use it for their money of account. It is equally true that the people of England are too rich to make silver their money of account. Hence the merchants of the empire are compelled to measure values in two kinds of money.

But this is only a small part of the difficulty. While gold is made the standard for setting prices in the wealthier nations, such as England and the United States, it is not possible to do the business of the country with gold alone; not because there is not enough gold for the purpose, but because any commodity which has enough value in small compass to make it convenient for a standard of value in a wealthy country cannot be used in petty trade. You cannot pay for a postage stamp in gold. Something else must be used.

Difficulties with the Standards. — Governments have tried to overcome this difficulty by finding out as nearly as possible the market value of the two metals, and issuing coins in both, of such weight that they would have the same value. Thus far it has been

found impossible to do this. By a variation in the market the metal in one coin becomes more valuable than the other. When this is so, specie brokers collect the valuable coins, and leave the other in the hands of the ignorant and the helpless; and thus commerce is deprived of the use of one kind of money. Our government at first made both gold and silver coins a full legal tender in the payment of debts. But in fixing the weight of the coins, it chanced that the gold coin was worth more than the silver, and the result was that gold would not circulate, and we had only silver as money. By the legislation of 1834 and 1837 the gold coin was made lighter. The result of this legislation was that a silver coin of full weight was worth more than a corresponding gold coin; whereupon, the silver coins were immediately collected by speculators, and melted down, and the people were brought into great distress for lack of change. At this time our government made copper cents, which were so "honest" that men collected them and made kettles of them. Merchants were compelled to resort to all sorts of devices, such as the use of worn and clipped coin, and the importation of foreign coins. The influx of gold from California, beginning in 1849, had the effect to aggravate the difficulty.

The Difficulty overcome. — This distress continued until 1853, when our law makers adopted a device which had been found to work well in England. The silver coins were intentionally made light, so that they were worth less than gold, and were made a legal tender in small sums only. This device protects the people from the speculators, and secures the use of both

metals as a medium of exchange. There is no temptation to melt down a light silver coin, and the government keeps the light coin at full value in trade, by retaining a monopoly of the manufacture, and by furnishing only enough to supply the demands of commerce. Under such circumstances, these light token coins will always "pass" at the full gold value, upon which all prices are based. So long as gold is the actual measure of values, there is no temptation to melt a gold coin, because no one can buy it without paying the full price for it.

In our last legislation on coin, there appears some tendency to return to the distressing experience of our earlier history. In 1878 our silver dollar was again by act of Congress made a full legal tender in the payment of all debts. The act also provided that the supply of these dollars might be limited to $2,000,000 per month. Owing to the fact of this limitation, and to the further fact that the Treasury Department has exercised a wise discretion, and has not forced silver into circulation, we have thus far been saved from the calamity of losing the better part of our money.

CHAPTER XIX.

BANKS AND PAPER MONEY.

BANKS are places for the safe keeping of money. Bankers secure a profit chiefly by receiving the money of others and loaning it. Some banks issue their own notes, and then loan them, charging interest upon

them, as upon other money. The value of a bank-note rests entirely upon the fact or the belief that money of real value can be secured upon presentation of the note. The business of banking was begun without any action of government. But there are special reasons why governments should regulate banks of issue. The nature of the business is such that frauds will be committed unless prevented by the government.

The Bank of North America. — The first bank in the United States was the Bank of North America, chartered by the Continental Congress and the State of Pennsylvania, in 1781. Robert Morris was the chief actor in its establishment. It proved to be a great blessing to the country. Bills were issued, and were always kept at par by the prompt payment of coin upon presentation.

Control of Banks assumed by the Federal Government. — When the new Constitution was adopted, one of the questions early claiming the attention of the government was, whether the regulation of banks endowed with the privilege of issuing notes belonged to the states or to the federal government. A majority of Congress assumed that it belonged to the federal government, and passed a law for the establishment of a Bank of the United States, with the privilege of continuing in business for twenty years. So for a time both federal and state governments maintained banks of issue. It is now conceded to be bad policy for the state and the federal government to maintain banks of issue at the same time.

After a trial of twenty years, the federal government refused to re-charter the Federal Bank. Then,

by common consent, the banking business came entirely under state control. This continued for five years, when there ensued such financial distress, that Congress chartered another national bank for twenty years. At the end of this time Congress was prevented from re-chartering, first, by the veto of President Jackson, and afterwards by that of President Tyler.

State Banks. — From 1836 till 1863 the banking business was left entirely under state control. Each state was free to adopt any system it chose. Some of the states made wise laws, and some banks conducted their business wisely, so that their bills were kept at par with gold. Other states made unwise laws, and a multitude of banks sprang up which were mere swindling institutions. It was found impossible, under state management, to secure uniformity in the value of paper money. So long as a particular bank continued to pay gold upon presentation of its bills, they would circulate at par in the vicinity of the bank. But there were comparatively few state banks whose credit was such that their bills would circulate in all parts of the country.

New York Banking System. — In the midst of the Civil War our present banking system was adopted. Congress, in planning this system, had the benefit of the experience of the states, which had been conducting experiments in banking for more than twenty years. The state of New York had adopted a method by which, in case of the failure of a bank to redeem its bills in gold, the holders of them were secured against loss. This system required the banks to deposit with a state officer a sufficient amount of property to redeem

all the bills which they were allowed to issue. The property designated by law for this purpose was, for the most part, government bonds. Iowa, following the example of New York, had adopted a similar system.

National Banks. — Congress, in 1863, had to provide means for a great war. The only way possible for getting the amount of money needed was by borrowing it, that is, by selling bonds. The one thing most needed, then, was a market for United States bonds. As the New York system required banks of issue to purchase bonds, it occurred to congressmen that it would be good policy for the federal government to adopt such a system. The state banks of issue were gotten out of the way by a special tax, which made it impossible for them to exist.

The New York system permitted the banks to purchase a variety of bonds of state and municipal governments. The federal system requires all banks of issue to buy United States bonds. These bonds are deposited with a special officer in the Treasury Department, called the Comptroller of the Currency. The bills which the banks are permitted to issue are all printed in the Treasury Department at Washington. A company of five or more citizens who wish to organize a national bank are required first to buy United States bonds. If they deposit bonds with a par value of $100,000, the government will then furnish to the bank $90,000 in blank bills, which, when signed by the proper officers of the bank, become notes of the bank, and may be loaned like other money. The bank is required to deposit a five per cent. redemption fund, so that the amount of money available for business is less than $90,000.

If a national bank fails, its bills are still good, because the property of the bank held by the Comptroller of the Currency is amply sufficient for their redemption. These bills are a convenient and satisfactory medium of exchange, are everywhere of equal value, and are received without question.

It would seem that, after a hundred years of experimenting, we have at least settled one principle, namely, that the federal government shall control all forms of money.

Treasury Notes. — We have a sort of paper money issued directly by the government, in the form of legal-tender notes, or greenbacks. These likewise originated in the Civil War. For many years this paper was forced upon the people by the power of government. During all this time it was a fluctuating and uncertain measure of value; was worth less than gold, so that money of real value would not circulate at the same time. In 1879 the government began the payment of gold for greenbacks, upon presentation. Since then, greenbacks have freely circulated on a par with gold. They now have the same standing as banknotes. The Treasury Department of the government is made a sort of bank of issue. But instead of loaning the money, as other banks do, it pays it out for current expenses.

CHAPTER XX.

THE TREASURY DEPARTMENT.

To furnish banknotes, treasury notes, bonds, and all other papers which need to be carefully engraved, there

is connected with the Treasury Department a bureau of engraving and printing. To attend to the business of manufacturing coins there is connected with the same department a bureau of the mint. United States mints are located at Philadelphia, New Orleans, San Francisco, Carson, and Denver.

The chief duties of the Treasury Department are the collection and disbursement of the revenues of the federal government. Customs are to be collected at all the ports of entry, and internal revenue in every part of the country. There are several sorts of business in the hands of this department which are not closely related to finance, as the keeping up of light-houses; the inspection of steamboats, to decide whether they should be allowed to go to sea; the maintenance of a life-saving service at dangerous points on the coast; the coast-survey, for the benefit of commerce; and the guarding against diseases, through a National Board of Health.

These various kinds of business are under the general supervision of the Secretary of the Treasury, who is a member of the President's Cabinet. The service in the Treasury Department requires a large number of officers, who are appointed in the same way as those in the Postoffice Department. The more important places are filled by the President, with the consent of the Senate, and others by the President or the Secretary alone, or with the assistance of the Civil Service Commission.

Summary.— For the administration of the laws of Congress concerning collecting of customs and internal revenue, the coining of money, and the regulation of the

United States Banks, and various sorts of business connected with commerce, the Department of the Treasury is maintained. The coining of money and the regulation of the value thereof has always been in the hands of the general government. The control of banks of issue has part of the time been in the hands of the states. States are forbidden to issue paper money. The general government during the civil war authorized the issue of legal-tender notes.

Suggestions. — A thorough treatment of money belongs to Political Economy rather than to Civil Government, yet the coining of money and the regulation of banks of issue involve the action of the government. Name the coins in common use. What is the difference between the value of the metal in the coin and the value of the coin? Is there any difference between the value of the metal in a gold coin and the value of the coin? When silver, copper, or nickel is made into coin, who gets the benefit of the difference between the value of the metal in the coin and the value of the coin? Why may not individuals coin copper, nickel, and silver for the profit of the business? Read a bank-note and explain its meaning; a greenback; a gold certificate; a silver certificate. Collect facts, for illustration, about the nearest national bank. Compare national banks with banks organized under state laws. Compare the divided treasury of the state with the united treasury of the federal government. How many treasurers are there in your state? A school district containing five hundred inhabitants loses one hundred dollars; how much money should be lost by the federal government in order to inflict an equal loss upon each person in the

district? In a county of ten thousand inhabitants the treasurer is defaulter to the amount of one thousand dollars; how much should be stolen from the federal treasury to inflict a proportionate loss? Which is a source of greater danger to the government, corruption in a centralized treasury, like that of the federal government, or in a divided treasury, as in the states?

CHAPTER XXI.

THE FOREIGN SERVICE.

Treaties. — When our revolutionary fathers adopted the Declaration of Independence and thereby expressed their determination to become a separate and independent nation, they immediately took steps to secure the recognition and assistance of other nations. They sent ambassadors to France; and after two years a treaty was signed with that government, acknowledging the independence of America, and promising assistance in the war against England. The co-operation of Spain in the war was secured in the following year. In 1783 a treaty was completed with the English government whereby our independence was acknowledged. At the same time a treaty was made with Spain, fixing the boundary of the United States on the south and west. Florida was made the boundary on the south, and the Mississippi River on the west, while Spain kept control of the mouth of the river. In 1803, by a fortunate turn in the affairs of Europe, it became possible for the United States to purchase from France the vast territory west of the Mississippi River, since known as the

Louisiana Purchase. This gave to the United States entire control of the Mississippi.

In 1819 Florida was purchased of Spain; and a definite boundary for the Louisiana purchase was fixed. This boundary was so run as to give to the United States Oregon and Washington Territory on the Pacific coast. At the close of the Mexican War, in 1848, our treaty with that republic secured to us the Rio Grande and Gila rivers as our boundary on the south-west. A strip of land south of the Gila was purchased of Mexico in 1853.

In adjusting our boundary on the north, we have dealt with England. For many years there was a dispute as to the precise location of the northern boundary of Maine. The treaty made in 1783 was not clear in its terms. This dispute was finally settled by the Ashburton Treaty in 1842. The treaty with Spain in 1819 gave to the United States, so far as the claims of Spain were concerned, the Pacific coast north of the 42d degree of north latitude. But the English nation claimed the entire region as a part of their territory. The United States claimed the coast region west of the Rocky Mountains as far north as 54° 40′. Several treaties recognize this as disputed territory. A treaty with England in 1846 fixed upon the 49th parallel as the dividing line. A treaty with Russia in 1867 gave us Alaska.

These are the important treaties by which our territory has been extended. Besides questions of territory there are many other things which claim the attention of nations in their dealings with each other; questions concerning commerce and the navigation of

seas and rivers, the surrender of escaped criminals, the protection of citizens travelling or residing abroad, immigration, postal business, and many other matters of greater or less importance.

The entire business of dealing with foreign nations has from the beginning been in the hands of the federal government. The Articles of Confederation forbade the states to make treaties or to conduct official business with other nations without the consent of Congress. The Constitution makes it unlawful for a state to make a treaty under any circumstances. It would lead to infinite confusion and trouble to allow the states to carry on official business with a foreign nation.

The Secretary of State. — Washington made Thomas Jefferson his first Secretary for Foreign Affairs. The legal name of this division of the Executive is the Department of State. The head of the Department is called the Secretary of State. He occupies the place of greatest dignity and honor in the President's Cabinet. He receives all ambassadors and ministers from foreign nations, and introduces them to the President. He conducts all correspondence with other nations, and is the custodian of the archives of the government.

The Diplomatic Service. — In the State Department many of the officers reside in foreign lands. They are divided into two classes assigned respectively to the Diplomatic and the Consular Service. In the Diplomatic Service the officers have to do chiefly with governments. They reside at the capital of the nation to which they are sent, and receive instructions from the President, communicated through the Secretary of State.

It is their duty to secure, so far as possible, a favorable consideration of all our interests. All communications to or from foreign nations are made through our diplomatic agent abroad, or through foreign ministers at Washington.

In the Diplomatic Service are agents differing in rank. The highest are "Envoys Extraordinary and Ministers Plenipotentiary," who represent our government at the capitals of Great Britain, France, Germany, Russia, Austria, and other large states. The second class, called "Ministers Resident," are employed in less important nations, as Central America, Sweden, and Turkey. The third class receive the name of "Chargés d'Affaires," and are sent to Denmark, Portugal, and a few other small states, or are employed temporarily to supply vacancies in larger states. The Diplomatic officers are assisted in some of these places by Secretaries of Legation and interpreters.

Consular Service. — The officers in the Consular Service are more numerous than those in the Diplomatic. They have to do chiefly with the rights and interests of individuals. All foreign countries frequented by Americans are divided into consular districts, and a consul is appointed for each one. If an American dies within the limits of the district, and leaves no provision for the settlement of his estate, it is the duty of the consul to take charge of it, pay all debts, collect all dues, and transmit the remainder of the property, or of the proceeds from its sale, to the treasury of the United States, to be holden for the legal claimants. If an American in a foreign country wishes to make a legal transfer of property, the business is done by a consul. These are examples of a multitude of things which a consul may do for the benefit of Americans in foreign lands.

But by far the most important business in the Consular Service is that connected with American shipping. The consul must keep a record of all American vessels entering his port, the number of seamen, the tonnage of each vessel, the nature and value of the cargo, and various other items. The consul is the legal guardian of the rights of American seamen. If seamen are destitute, it is his duty to furnish relief at the expense of the United States government. He may require shipmasters to convey sick or destitute seamen to the United States.

The Alabama Case. — It is the duty of all ministers, consuls, and agents of the United States in foreign lands to collect information which may be of use to the United States government or people. The famous "Alabama Case" furnishes a good illustration of the practical working of our foreign service. It was the duty of our consul at Liverpool to learn the fact that a ship was being built for the purpose of preying upon American commerce. Having learned the fact, it was his duty at once to inform the Secretary of State. It was then the duty of the Secretary of State to request the British government to prevent the vessel from going to sea. When, through the negligence or connivance of British officials, the vessel had been permitted to go to sea, it became the duty of the Secretary of State to notify the British government that the United States held itself entitled to full compensation for all the damages inflicted upon American property by the Alabama. Having set forth this claim, it was the duty of each Secretary of State, in all proper ways, to insist upon a settlement at the hands of the English government, until an agreement was reached.

Summary. — A great advantage of a general government is the relief which it furnishes to the local governments from the responsibility of adjusting foreign difficulties. The Continental Congress made treaties, and the Articles of Confederation took away from the states the right to make treaties without the consent of Congress. The foreign service is divided into two distinct parts: diplomatic and consular. Through the diplomatic, official communications to governments are made. Consuls are placed in foreign cities to protect the rights of American citizens and seamen, and enforce the commercial laws of the United States.

Suggestions. — On this topic it is not possible to get any light from local experience in state government, nor in most cases will it be possible to gain facts from the personal experience of individuals. If, however, there are at hand ex-consuls, or returned travellers who have had peculiar experiences abroad, they may furnish useful illustrative matter. Facts in the history of the United States will naturally suggest themselves; as, the case of Genet; the XYZ mission in John Adams' administration; the Mason and Slidell case; etc.

CHAPTER XXII.

THE INTERIOR DEPARTMENT.

PREVIOUS to the year 1849 the government of our Indian tribes, the government of our territories, the disposition of public lands, and various other matters pertaining to internal administration were attended to by

the State Department. To provide for their performance, the Interior Department was organized by act of Congress in 1849. This department relieved the State Department of all internal affairs. If one wishes to get a patent upon some invention, he corresponds with the Commissioner of Patents, in the Interior Department. If he wishes to secure a pension, he corresponds with a Commissioner of Pensions, in the same department. Information about schools of learning in all parts of the world may be obtained from the Bureau of Education, in the Interior Department. If the crops are threatened with destruction by insects, there is in this department an Entomological Commissioner, whose business it is to suggest ways and means for saving the crops from their ravages.

The census office is attached to the Department of the Interior. To it are attached also a hospital for the insane of the army and navy, a college for deaf-mutes, and hospitals for the sick.

From the date of its organization, the Secretary of the Interior has been a member of the President's Cabinet. Part of the business of the department will, in the natural course of events, pass away. If the territories should all become states, as they are likely to do, then the Interior Department would have no farther care for their government. If the Indian tribes should cease to exist, and the Indians should come to be treated as citizens, the Interior Department would be relieved from all care for their government. As fast as the public domain passes into the hands of private individuals, or into the hands of states, the department ceases to have anything to do with the land. Other kinds of

business, however, will increase in amount and in importance.

The Department of Agriculture. — A part of the work formerly done by the Interior Department is now done by the Department of Agriculture. The head of this department is not a member of the President's Cabinet. It is not improbable that this work will be increased, and that the Department of Agriculture will be developed into a full executive department, with representation in the Cabinet.

Land Surveys. — The Department of the Interior has charge of the public lands until they become the property of individuals or of the states. Before land can be sold to individuals, it is necessary that boundaries be accurately fixed. For this purpose, a system of land surveys was adopted during Washington's administration.

Townships. — The honor of devising our admirable system of United States surveys has been attributed to Thomas Jefferson and to Albert Gallatin. According to this system, the land is first divided into squares by meridians and parallels, six miles apart. These squares are called *townships*, and serve the double purpose of locating land and of furnishing the boundaries for local governments. A row of townships running north and south is called a *range*. As civil governments, townships receive proper names, as Washington or Madison; but for the location of lands they are designated by numbers.

Principal Meridians and Base Lines. — The surveyors begin their work by selecting some natural object, easily distinguished; and from this, as an *initial*

point, they mark off, north and south, a true meridian, called in the system a *principal meridian*. Crossing the principal meridian at right angles, they establish a true parallel, called the *base line*. Upon each of these lines the surveyors leave marks, a half-mile apart, throughout their entire length.

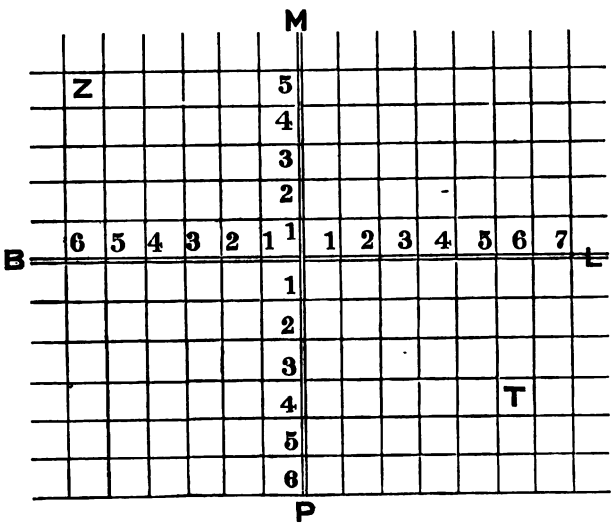

FIG. 2.

P. M. = Principal Meridian; B. L. = Base Line. The numbers on the base line mark the range lines; the numbers on the principal meridian mark the township lines. Z is in range 6, west, and is in township 5, north; T is in range 6, east, and in township 4, south.

Range lines are run north and south six miles apart on either side of the principal meridian. These lines, and the ranges of townships they mark off, are numbered east or west from the principal meridian. Range 16

west means either a line 96 miles west from the principal meridian, or the adjoining range of townships. R. 20 east is the 20th range east, or the 20th range-line $20 \times 6 = 120$ miles east, from the principal meridian.

Township lines are run six miles apart, parallel to the base line. They are numbered north or south from the base line. Township No. 12 S. means a township whose south line is situated 72 miles south of the base line.

The annexed diagram (Fig. 2) may serve to explain the system.

Correction Lines. — If the surveys are accurately made, the township lines are just six miles apart throughout. But since the range lines are run north and south, they are not parallel, but converge towards the pole of the earth's axis. Two lines, in latitude 42°

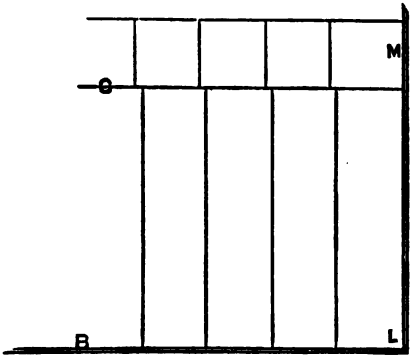

FIG. 3.

north, starting six miles apart, and running due north six miles, will be about three rods nearer together than at the starting points. Range lines start six miles apart at the base line; consequently, north of the base line

they are less than six miles apart. In latitude 42°, at the distance of 60 miles from the base line, the township lacks 30 rods of being six miles east and west. To prevent this narrowing process from destroying the system, the surveyors measure out from the principal meridian, and establish a new base line, called a *correction line*, as indicated in Fig. 3.

Sections. — Each township is sub-divided into 36 sections, as indicated in Fig. 4.

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

FIG. 4.

A section contains 640 acres. The surveyors begin at the south-east corner of the township to locate the sections. If the work is accurate, all the sections are perfect except those on the west side; these are always imperfect, or "fractional." On the north side, also, it generally happens that the survey of the sections does not correspond with the township survey; hence, a lot on the north side of the township is generally frac-

tional, containing more or less than the ordinary quantity.

The United States survey ends with the location of the section lines. Marks are made by the surveyors at the corners of the sections, and also half-mile marks between the corners. By means of these marks, purchasers are enabled to locate with sufficient accuracy the land which they wish to buy.

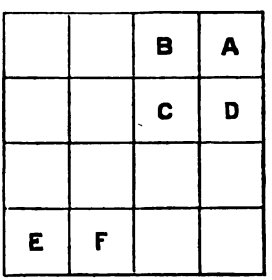

FIG. 5.—SEC. 9.

The government sells the land in lots of 40 acres, or multiples thereof. In each section there are 16 of these lots, as indicated in Fig. 5.

Lots A, B, C, and D, taken together, are one-fourth of the entire section described as N. E. ¼ of Sec. 9. A alone is described as N. E. ¼ of N. E. ¼ of Sec. 9. E is S. W. ¼ of S. W. ¼ of Sec. 9. E and F together are described as S. ½ of S. W. ¼ of Sec. 9.

The following is the complete description of 160 acres of land, according to the United States survey: "The south-east, one-fourth (S. E. ¼) of section number nine (9) in township eighty-one (81) north; range eighteen (18) west of the fifth principal meridian."

The fifth P. M. runs near Dubuque, Iowa. Range 18 is $18 \times 6 = 108$ miles west of Dubuque. The base line of this survey runs near Little Rock, Ark. Township 81 is therefore, on its north boundary, $81 \times 6 = 486$ miles north of Little Rock. Having by these numbers found the township, it will be seen by reference to Fig. 4 that the S. E. corner of Sec. 9 is three miles from the township line east or west, and two miles from the north line.

By means of this simple system any lot of land may be conveniently located and accurately described.

Summary. — The Interior Department in the federal executive is made up by a process of exclusion from the other more clearly defined departments. It is not postal business, not treasury, not foreign, nor war, nor navy, but is everything else. There is no one line of business which is characteristic of it as of the other departments. The business of chief importance is the administration of laws concerning public lands, patents, pensions, and the laws and treaties affecting the Indian tribes.

Suggestions. — Certainly there will be no lack of illustrative matter in the study of this department. In all that region of country covered by the congressional surveys the subject should be studied with reference to local peculiarities and incidents. Does the civil township coincide with the congressional township? Are the highways on section lines? Locate the school lands of the township. When the school land was sold by the state, what was done with the money? Is there a local officer whose duty it is to survey land? Under what authority does he act? Is he permitted to change the

lines fixed by congressional survey? Name the persons of your acquaintance who have applied for, or secured, a patent right. Give the history of a case at law for the infringement of a patent right. Are suits for the infringement of a patent right tried in the state, or in the federal court? Illustrate the operation of pension laws from facts known to you.

CHAPTER XXIII.

THE WAR AND THE NAVY DEPARTMENTS.

THE army and navy of the United States are small compared with those of other nations; yet they absorb a large proportion of its revenue. The military establishments of the states amount to almost nothing. The Constitution of the United States forbids the states to keep troops or ships of war in time of peace, or to engage in war unless actually invaded, or in such imminent danger as will not admit of delay. The states may, if they choose, keep arms, and provide for the drilling of the militia; but these measures are generally neglected by the states.

The regular army of the federal government serves as a national police in the territories and newly settled states. It is more frequently called into service in Indian warfare than in any other way. A portion of the army is kept on duty at the various forts and arsenals of the United States.

Aid to the States. — It is expected that each state will preserve order within its own limits. In case of

riot, if the sheriff be not able to quell it, it is the duty of the governor of the state to do so with the state militia. If, however, the disturbance is too formidable for them to suppress, the state legislature or, if the legislature is not in session, the governor, may call upon the President of the United States for aid. It then becomes the duty of the President to furnish sufficient force to quell the riot and restore order. There have been few instances where the aid of the federal government has been invoked to assist a state in preserving order. In the case of Dorr's Rebellion, in Rhode Island, there was a dispute as to who was the rightful governor; civil war was threatened, and the President was called upon to restore order. For several years after the Civil War United States troops were often used to preserve order in the southern states. In the railroad riots of 1877, the United States troops assisted Pennsylvania in preserving order. One instance at least has occurred where a state has asked and received the aid of the federal government without having first made an effort to quell the riot by the use of state militia. There was a riot in Omaha, Nebraska; and United States troops which chanced to be stationed near were used to quell the riot.

State Aid to Federal Government. — The President of the United States, when resistance to the execution of the federal laws becomes too formidable to be overcome by the forces at his command, may call for aid from the states most conveniently situated. It then becomes the duty of the state government to furnish such part of the state militia as may be called for. President Washington, in the time of the Whiskey

Rebellion, in 1794, called upon the adjacent states; and they responded to his call. When the state calls upon the President for aid, the federal officers retain command of the troops used. When the President calls upon a state for aid, the state militia enter the federal service, and become subject to the command of the President. At the beginning of the Civil War President Lincoln called upon the loyal states for troops to assist in enforcing the laws of the United States. The loyal states responded, and promptly came to the aid of the federal government, furnishing all that was needful to maintain the integrity of the Union.

Separate Navy Department in 1798. — In the organization of the Executive under Washington's administration, there was but one department for the army and the navy. A separate department for the navy was created in 1798. The secretaries of these departments are members of the Cabinet. They have the general care of all the property and persons connected with the service of the army and the navy.

Various kinds of governmental business are connected with these departments besides their strictly military work. During a part of our history the Indian affairs have been in the hands of the War Department.

The Signal Service. — It is often desirable, on the field of battle, to communicate more rapidly with the different parts of the field than can be done by means of messengers. A system of signals has therefore been adopted, by which information may be sent instantly as far as they can be seen. The electric telegraph is also used wherever practicable. To train a class of men, and make them efficient in the various branches of the

signal service, a school has been established at Fort Whipple, in Virginia. One of the early uses of the signal service was to give notice to military commanders of an approaching storm. To this end it was natural that the peculiar conditions of the atmosphere which indicated an approaching storm should be noticed and reported. Similar observations were taken at the various light-houses and life-saving stations; and storm signals were put out, when necessary, to warn ship-masters.

Meteorological Bureau. — From these beginnings there has grown up, in connection with the signal service, a Meteorological Bureau. There are nearly two hundred stations, in the various parts of the country, where careful observations are made; and three times each day, at almost the same instant, reports are sent to the central office at Washington. From the study of these reports, the probable changes in the weather for the next twenty-four hours are made out for the different parts of the country, and the news is published by bulletins in the daily papers and elsewhere. From the central office orders are sent to display warning signals at such ports as are threatened with a dangerous storm. Bulletins are displayed in some postoffices, for the benefit of farmers, in planning their work and saving their crops.

The signal service takes notice also of the tides on the coast, and the rise and fall of lakes and rivers. Thus the people are forewarned of an approaching flood.

By co-operation with weather observers of other countries, the science of meteorology is being rapidly advanced. This service, which had its origin in the

destructive arts of war, has come to be most salutary in the arts of peace, and, incidentally, has become a link in uniting nations.

Other Aids to the Arts of Peace. — Another illustration of the way in which a work which was military in its origin has come to be useful in non-military pursuits, is found in the engineer corps of the army. War demands the most skilful engineers; for it includes the making of arms, ships of war, forts, bridges, and railroads. These things, and many others, have to be done with great expedition and efficiency.

The trained officials which the government supports primarily for war have been found useful for other purposes. When the city of Washington needed a water supply, the engineers of the War Department planned and constructed the great aqueduct. The chief engineer of the War Department has charge of the public buildings and grounds in the District of Columbia. Military engineers are constantly employed upon the rivers and harbors of the country. Bridges have been built primarily for the use of the army, but incidentally for the benefit of others. Public surveys are made, and maps are constructed, which add to our knowledge of geography. The Bureau of Navigation is maintained ostensibly for the benefit of the United States Navy; but it probably renders its most important service to commerce and science. In a similar way the practice of medicine and surgery in the army and navy is made to contribute largely to the general science of medicine.

Summary. — The business of war is closely connected with the foreign relations of the government. It is,

therefore, in the hands of the general rather than the state governments. The object of the military establishment is the security and peace of the citizens. If states are disturbed by riot or invasion beyond the control of the local power, the federal arm may restore peace. If the federal government, from any cause, is unable to enforce federal laws with the federal troops in regular service, the states are called upon to aid the federal government.

Suggestions. — The history of our wars can furnish facts to illustrate this topic. Give a history of the Whiskey Rebellion; Dorr's Rebellion. The Revolutionary War may be used to furnish facts showing the confusion arising from a divided authority between states and the nation. The Civil War furnishes abundant material for illustrating the co-operation of loyal states with the federal government in a war against a confederacy of states which contended for the right of secession.

Part V.

LEGISLATION.

CHAPTER XXIV.

LAW MAKING IN EARLY TIMES.

In the previous chapters frequent allusion has been made to laws and statutes. Much that has been described as the work of the various governments under which we live, is done in accordance with the provisions of the constitutions and laws of the states and of the federal government. One part of the duty of government, then, is to make laws.

Early Customs. — We commonly look upon law making as the first act of government. There is evidence, however, that law making, as a distinct and separate business, came comparatively late in the history of government. People acted together in doing the work of government long before there were distinct laws directing them how to act. In the town meeting of our Saxon ancestors the old men were appealed to for information as to the good customs of former times. Difficulties having formerly been overcome in a certain way, the particular difficulty in hand was settled according to the experience of the past. No general law existed, and, apparently, there was no thought of making a general law. The chief effort was to follow good old usage.

New conditions and new necessities gave rise to new customs. Small communities became more closely united, giving rise to governmental business of a more general nature. But for a long time it was customary to assume the new business without taking any trouble to make laws about it. Many of the early laws of England are merely statements of the customs of the past.

The Roman Church. — There was, however, a complicated system of laws imposed upon the English people by the Roman Church in the seventh century. The Roman missionaries set up in England a thoroughly organized ecclesiastical government, with officers and courts. The plan would have failed if the missionaries had depended upon Englishmen for the execution of their laws; but they brought with them men who had been long accustomed to such administration, and through whom Englishmen slowly became acquainted with the Roman system of church government.

Customs imposed as Laws. — After about three hundred years' experience of a national church government for all England, it occurred to English kings that it would be a good thing to have a corresponding national system for the secular government. A national government was organized, using the church government as a model; and codes of laws were collected and published. These laws were probably little more than an embodiment of prevailing customs; that is, the laws in many cases required the people to act in matters of government as they had been acting for centuries without any formally imposed law.

Kings the Reputed Source of Law. — With the promulgation of a system of laws by English kings,

began a new era in law making. As the laws seemed to come from the king, the people gradually lost sight of their true origin, and at length came actually to believe that the kings were the real source of their laws; that their good customs had been taught them by good kings in past ages. Any institutions which they saw about them whose origin they did not understand, they were accustomed to attribute to the good King Alfred.[1]

Lawyers taught the doctrine that the king is the source of all law; that the king can do no wrong; that the will of the king is law. It was in accordance with the will of the king, and of the great lords associated with him in the government, to do many things contrary to the ancient customs of the people. But while they succeeded in changing many of the local customs, many others were so thoroughly fixed in the habits of the people, that they could not be changed by kings and lords. We probably owe more than we are aware to the downright stupidity of our ancestors. Although induced to accept many erroneous notions, they could not be taught an entirely new way of conducting their local governments.

Parliament not at first a Law-Making Body. — In a previous chapter allusion has been made to the growth of the English Parliament. It would be a mistake to suppose that the English Parliament was primarily a law-making body. When Edward I. called upon the counties and boroughs to send delegates to his Great Council, his object was to secure their aid, not in the

[1] Alfred, according to tradition, divided England into counties and hundreds.

making of laws, but in the granting and collecting of taxes. It was a long time before the representatives of the people in Parliament came to look upon themselves as the law makers of England. They followed an old English custom of humbly asking favors of the king, whom they looked upon as the source of all power and all authority. These petitions, when granted and signed by the king, had the force of laws.

After centuries of experience and of conflict with bad kings, the Parliament came to occupy the position of the chief law-making power of the English government, — a power to whose laws kings and people are alike subject. The people themselves, through their lawfully-chosen representatives, are now held to be the real source of power, and the king has no right to refuse his assent to a law passed by the representatives of the people in Parliament assembled.[1]

The Stamp Act. — Many of the old forms remain which were adopted at a time when the king was regarded as the source of all power. In the famous Stamp Act, passed by Parliament in 1765, are found these words: "We, your majesty's most dutiful and loyal subjects, the Commons of Great Britain, in Parliament assembled, have, therefore, resolved to give and grant unto your majesty the several rights and duties hereinafter mentioned; and do most humbly beseech your majesty that it may be enacted. And be it enacted, by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and Commons in this present Parliament

[1] See page 154, on the Veto Power.

assembled, and by the authority of the same, that from and after," etc. In these words are indications of various ideas that have at different times been associated with the work of law making in England. The Commons, from the beginning, were accustomed "to grant and to give" to the king; from the beginning they were accustomed to "humbly beseech" his majesty. It was later that they began to say "be it enacted." It may not be logically consistent for Parliament to say "we do most humbly beseech your majesty that it may be enacted," and then go right on to say, "be it enacted by the authority of Parliament"; but this phraseology correctly represents the mixed ideas of the English people.

Origin of Legislation in the Colonies. — The English colonists who settled in America had actual experience of the two methods of law making in the English government. At times they were required humbly to submit to the will of the king and the despotic governors appointed by him. In their local affairs they were governed by little representative or democratic governments of their own. They had a decided preference for the latter method of government. Even the high Tories, who held that the king was the source of all authority, preferred to practice the opposite doctrine in America. Many circumstances combined to place the government of the colonies almost entirely in the hands of their own local and colonial assemblies. For nearly a hundred years previous to the Revolution the English colonies were practically self-governing. They voted their own taxes and made their own laws.

It is a mistake to suppose that our revolutionary fathers wished to be represented in the English Parlia-

ment. The privilege which they prized, and for which they imperilled their lives and fortunes, was the right of being governed by their own representatives, in their respective colonial assemblies.

The Continental Congress. — The war with England made it necessary for the colonies to act together. Representatives from the various colonies met, and began the work of providing ways and means for carrying on the war. They continued to do whatever seemed necessary for the maintenance of their rights. This Continental Congress, brought into existence by the exigencies of war, was the first law-making body for the United States of America, and, in reality, was the federal government until the adoption of the Constitution. It was not only a law-making body, but it attended to all the work of government. The Continental Congress had but one branch. The Congress for which provision was made in the Constitution is composed of two branches, following the example of a majority of the state legislatures of that time.

CHAPTER XXV.

LAW MAKING IN OUR TIMES.

Law Making in a School District. — Since it is desirable for the schools that their regulations should be adapted to the local needs and customs, many of their details are left to the control of local officers. In some states the board of a school district is authorized to vote taxes for school purposes, adopt text-books, determine courses of study, and make rules and

regulations for the governing of the schools. The local school board, acting under the authority of the state, thus becomes a sort of law-making body for the school district.

In Township and County. — The same may be said of township and county governments. The state legislature may make general provisions; yet it is best to leave a large discretion to the local boards. The state law may decide whether the county or the township shall make provision for the care of the poor; or it may be left to the people of the county to decide this question. In any event, the local government which receives charge of the poor should have a reasonable discretion in the adopting of ways and means. If a county maintains a poor-house, a county board should make by-laws for its government. The same may be said of the care of roads and bridges, or any other work placed in the hands of township or county.

In the case of school districts, townships, and counties, much of the work done is in pursuance of the general regulations of the state. The state has adopted a public school system; and the school district is an agency of the state, through which this system is carried into effect. Townships and counties, as they exist in most of the states, are chiefly executive agencies of the state government. Their legislative work is mainly confined to determining the amount of taxes for local purposes, establishing certain local institutions, and applying the general statute to the details of their particular work.

Law Making in a City. — Every city has its own peculiar life and character, and is in need therefore of its

own peculiar government. Cities are endowed with many of the essential characteristics of independent governments. They not only establish city institutions, and vote and collect taxes for city government, but have real law-making bodies, and make a great variety of laws or ordinances which are of the utmost consequence to the good order of the city.

The State Legislature. — The state legislature is the one law-making body for the entire state. It makes the laws in accordance with which the officers of cities, counties, townships, and school districts do their work. It does for the state at large what the various local law-making bodies of the state do for their respective localities; that is, it establishes state institutions, and votes taxes for their support. It provides for the organization of corporations, such as insurance, banking, and railroad companies, and may prescribe rules for their government. There is a great body of statutes in every state made for the government of individuals in their dealings with each other. Crimes are defined, and provision is made for their punishment. It would take a long time simply to name the different classes of state laws.

Congress. — The most general law-making body in our country is the Congress of the United States. Congress establishes national institutions, provides for the doing of national business, and adopts ways and means for the support of the federal government. A review of the chapters describing federal business will give a general idea of the scope of the laws of Congress.

The Territories. — Congress holds somewhat the same relation to the District of Columbia, and to the various territories, that a state legislature holds to cities or

counties within the state. It is its duty to make provision for their government. The plan commonly adopted for the territories is to make general provisions for their government, and to commit the details of territorial legislation to a local territorial legislature, which corresponds in many respects to that of a state. The legislature provides for local government much as a state legislature does, but with this difference, that Congress has power to overrule the action of a territorial legislature, while it has no such authority over a state. Congress may exercise full control over all officials in the territories, just as the state may over all officials within the state; but it can in no wise interfere with state officials.

CHAPTER XXVI.

SOME DIFFICULTIES IN LAW MAKING.

THE boards which make the local laws in school districts, townships, counties, and cities have ample opportunities to know how their laws work. Often the same persons who form the plans and adopt the regulations also carry them into effect. The school board, in its capacity as a law maker, may locate a schoolhouse, may decide to buy land and build, may adopt a plan for a building, and provide the means for doing the work; and then the same school board may go on and carry its plans into effect. They decide difficult questions which may arise in the execution of their plans. They are legislative, executive, and judicial officers, all combined. Every part of the work is in the hands of the same persons, and there is nothing mysterious about it.

Members of Congress, or of a state legislature, are often compelled, from the very nature of their position, to vote upon laws which they know little about. The subjects upon which they legislate are so numerous that it is not possible for each individual to inform himself upon every particular. They have the satisfaction of knowing that they are not obliged to execute the laws which they make. If their acts require hard, disagreeable and even impossible things, the disagreeable work will come upon others, and not upon themselves.

An Illustration. — The legislature of Iowa, under an impulse given to it by a few men interested in wool-growing, made a law which it was supposed would greatly diminish the number of dogs in the state. It was made the duty of local officers to kill all dogs whose owners had not complied with the law, which required the doing of several petty things at considerable expense to the owner. The early settlers were greatly attached to their dogs; they would not comply with the law, nor would they permit their dogs to be killed. So great was the opposition, that, five months after its passage, the same legislature voted to repeal the law. After this experience it was twenty years before a legislature could be induced to act upon the subject, and, in consequence of this delay, the wool-growing industry suffered greatly. If the authors of the first law had been the men who were to execute it, or if they had taken counsel of local officers and local conditions, they would have made a law which would have been acceptable to the people and profitable to the state.

Law Makers should learn from Experience in Administration. — It is not always possible that those who

make laws should also execute them, but it is especially incumbent upon the law maker thoroughly to inform himself concerning the administration and execution of laws. Men are not wise enough to foresee all the results of a legislative act. Those who have been engaged in the more difficult work of executing laws and active in the business of government are much more likely to be wise law makers.

The divorce of law making from the other duties of government began with the advent of that monstrous heresy that the king is the source of all law. Law making came to be looked upon as some mysterious and occult business, not at all connected with the ordinary business of men. If something is out of joint in the body politic, and it seems a little doubtful just what the trouble is, we charge it to the law, and so, as it were, invoke the ghost of King Alfred, and set him to tinkering our laws. We set apart groups of men who have nothing to do with the administration, and command them to legislate from the land all our woes. If woes still remain, we are inclined to charge the fault to a lack of legislation.

England still has the Monarch in connection with whom this mysterious business of law making had its origin, and by whom it has been kept in a sort of even, steady-going way. America was suddenly cut off from England, and was left with the same business on its hands, but without a king to regulate it. The result is that our governments have tried first one method and then another. True, we have many good laws, to which we have adhered from the beginning; and by the law of chances have hit upon many others. But we are still

crippled by the theory that there is some strange magic in the work of law making.

A fundamental error can never be helpful in governing a free people, King Alfred did not make the laws of England. All the laws in England and America which are worth anything are such as have come from experience in governing. The proper school for the law maker is in the actual administration of laws. He cannot learn to make laws by studying them, but by studying their administration.

Experience of Other Legislatures. — We have in America unrivalled opportunities for the study of the really difficult task of legislation. We have one federal government, and about fifty states and territories, each at work on the one problem of doing well the work of governing. The law maker in each of these governments may avail himself of the experience of all the others. When congressmen proposed to adopt a banking system, they selected from the various states the plan which seemed to work best. The men of Iowa, when called upon to legislate concerning dogs, might undoubtedly have received valuable suggestions from the experience of other states. And the law makers in other states who may hereafter wish to legislate upon this subject, should first consult the people of Iowa.

Summary. — Custom was the basis of early English law. In later times kings and lords imposed laws, and caused the people to believe that the king was the source of all law. The people, however, retained the habit of some sort of local legislative action, and, especially, the habit of voting taxes by their own representatives. Out of these local customs came the

parliament of England, and finally its claim to the chief authority in English legislation. Englishmen in America began the work of law making with little local self-governing bodies, and in course of time a legislature was formed for each colony. They were at times subject to regulations made in England, yet most of the time they were left to themselves. In the Revolution a national legislature was formed. The business of law making and providing ways and means of government was thus left distributed between local boards or democratic assemblies, in school districts, towns, townships, cities and counties, the legislatures of the several states, and the Congress of the United States. In the bodies which are exclusively law-making, viz., in the state legislatures and the Congress of the United States, much mischief has resulted from the notion that there is some magic in laws, and from a failure to properly understand and appreciate local conditions.

Suggestions. — Review the action of local boards and local assemblies with reference to this topic. Compare the action of a local board in establishing school districts or road districts with the action of the state legislature in establishing judicial and congressional districts. Compare the action of a local board in voting taxes for local governments with the action of the state legislature in voting money for state purposes. Compare a poor-house under the regulation of a county board with an insane asylum under the regulation of the state legislature. If there is a local board of health which has framed a set of by-laws with pains and penalties, compare these with a statute of the state with

penalties. Compare town and city laws with state laws.

The local boards act under the authority of laws made by the state legislature, — does the state legislature act under the authority of the Congress of the United States? For a knowledge of the organization and mode of action of the state legislature, read what is said of the subject in the constitution of the state. Compare the portion of the state constitution devoted to the legislative department with Article I. of the Federal Constitution. Give the history of some noted law, as the Fugitive Slave Law. Give the process of making a law, from the time it is introduced as a "bill," until it goes into effect.

Part VI.

CONSTITUTIONS.

CHAPTER XXVII.

THE ENGLISH CONSTITUTION.

The Constitution of a Literary Society. — If a company of young people wish to meet together once a week for the purpose of literary improvement, the first thing they do is to frame and adopt a constitution. Commonly, they get the constitution of some literary society already organized, and make a copy for themselves, putting in such modifications as seem to be required by their peculiar circumstances. Such a constitution usually contains statements concerning the objects of the society; its officers and some of their duties; the rules for their election, and for the admission of members, and the number necessary to form a quorum for the transaction of business. The constitution of such a society provides for the orderly and authoritative way of doing its business.

It would be possible for a company of young people who wished to improve their minds to come together, and proceed to act in an orderly and authoritative way, without adopting any constitution. They might choose their officers, and do the things specified in a constitution. They might adopt by-laws, from time to time, as

the need for them arose, and be an orderly literary society, with no written constitution.

Our Saxon ancestors found no written constitutions which they could copy. They were in need of an orderly and authoritative government, and in some way fell into the habit of acting in a regular and uniform way. In each township they chose their four best men and a reeve. Each of these offices had associated with it certain duties. The townsmen in town meeting were accustomed to exercise certain powers, and to perform various acts of government. The ealdorman had his recognized place.

Townships, Hundreds, and Shires. — If we should ask one of these, our ancestors, how they came to have such a government, he would probably say that they learned it from their ancestors. But how their ancestors learned it, no one could tell. All that is known is that each little group of kinsfolk had a habit of acting in the same way. The township had no written constitution. When the township was modified and became a manor, a parish, or a borough, the change took place without written laws or a written constitution. The government which received the name of hundred was a regular and orderly government, including within its jurisdiction several townships. The county or shire was a still larger government, and had its characteristic officers. The king and his wise men had their recognized place in the government of the realm. In the midst of all these civil governments, the Church took its place and gained great influence and power.

Custom the Basis of the English Constitution. — This complicated system of governmental institutions

came into being in England while there was no written constitution. No company of men came together, and, in a regular and formal way, parceled out the duties of government to the various officials and classes. The English constitution is chiefly unwritten; it rests upon custom. According to recognized custom, the king has certain duties, and certain powers and privileges. The same may be said of the House of Commons, of the House of Lords, of the Church, of the Ministry, and so of all officers and classes. Custom gave to the original township its form of government; custom determined the form of government for the hundred and the county. Custom, war, and conflict have made the general government of England what it is.

Conflicting Interests. — The English Constitution is a growth. From the time when neighboring villages first united in larger political societies there were always conflicting interests in the government. When there came to be a single national government in England, its power was not so thoroughly concentrated in the hands of one man or one class as to prevent conflict with others. Kings always wished to have their way; but in early times there were always great lords to be conciliated. The united barons could sometimes overawe and coerce the king. The Church had much power, and always wanted more. The common folk in early time had little power, as against kings, lords, and churchmen; but when these were at war with each other, the people always helped the power which they believed was ready to guarantee to them most liberty and privilege. This conflict extends through the whole of English history. Part of the time it was a mere

trial of brute force. More frequently certain moral and political rights were set forth as the basis of the contention.

Peculiar Meaning of the Word Constitution. — In the century in which the American colonies were founded, there was a great moral conflict in England, which led to a sort of settlement of the Constitution, and gave to the word "constitution" a new and peculiar meaning. In this conflict each class came to look upon the English Constitution as that which gave them certain rights and privileges that could not be taken from them. The king contended that the Constitution gave him certain powers which therefore could not be taken from him. The House of Commons contended that the Constitution secured to it certain powers and privileges. The House of Lords, the Church, and the various classes of English freemen likewise set up their claims under the Constitution.

As the English Constitution was unwritten, it might be expected that the various classes should disagree as to what it really was, and that each particular class should suppose that those powers and privileges which they were most in danger of losing were, above all others, secured to them by the Constitution. There would therefore be as many constitutions as there were conflicting classes and interests.

In order that the English Constitution should be of any advantage to a particular class, they should regard it as something which could not be violated. It would not do then for any class to claim that the Constitution gave them some power which they did not have, but would like to get. They must make it appear

that they already had the power, and that it would be a violation of the Constitution to take it away from them. This tends to explain the common conception of the Constitution. It is conservative in its nature; it gives to each class what each class may happen to have.

Amending the English Constitution. — One way the English people amend their Constitution is by effectually and thoroughly violating it. The Constitution secures to each class all the powers, rights, and privileges which they possess. To remove any one of these powers, rights, or privileges is to violate the Constitution. When a right or power once enjoyed under the Constitution has been violated or disregarded, then the Constitution is changed: the right or power can no longer be claimed under the Constitution.

The Veto Power. — There was a time when the king had an undoubted right to veto a bill passed by Parliament. Kings exercised this right without question. As the Constitution of England is now understood, the crown has no such right. As a recent writer of high authority on the English Constitution has expressed it: "The queen has no such veto. She must sign her own death-warrant, if the two Houses unanimously send it up to her."[1] Once it would have been a violation of the English Constitution to deny the king the right of veto; now it would be a violation of the Constitution for the queen to exercise that right. This change in the Constitution has been effected simply by the denial of the right by those interested in the promotion of the power of Parliament, and by the kings ceasing to exercise the veto power.

[1] Bagehot: *Constitution of England.*

Choice of Ministers. — Again, there was a time when kings had the undoubted right to choose their own ministers. The Queen still goes through the form of appointing them, but is really without power of choice. In the election of 1880, when it was evident that the conservative party was beaten, Lord Beaconsfield's Ministry resigned. The English Constitution, or, what is the same thing, English custom, requires that a ministry shall resign their office as soon as they lose the majority of the House of Commons. When Beaconsfield resigned, the queen sent for Lord Hartington, to make up the new ministry. Immediately the cry was raised that the queen had violated the Constitution, which required her to send for the leader of the Liberal Party to make up the new ministry, and the leader of the party was Mr. Gladstone. Now, in fact, there was at that time a real confusion in the Liberal Party as to who was their leader. Mr. Gladstone had resigned, and Lord Hartington had been put forward as leader. But when the campaign came on, the old war spirit came upon Mr. Gladstone, and he showed himself by his unrivalled powers to be the real leader. The queen, we may suppose, did the best she could. She sent for him who had been put forward as the formal leader. But when the nation demanded their real leader, the queen complied with the demand. All agree now that the queen has no real choice in the matter. This power, once constitutional, is now unconstitutional.

Submission of the House of Lords. — At one time the House of Lords had equal power with the House of Commons. The Lords could reject any bill passed by the Commons. It would have been regarded as a fla-

grant violation of the Constitution to attempt to force the Lords to pass a law of which they did not approve. But this is no longer the case. A bill recently passed the House of Commons and was rejected by the Lords. The cry was raised that the Lords had done an unwarranted and unconstitutional thing. The leader in the House of Commons recently warned the Lords that he intended to use all the power which the Constitution furnished in order to carry a particular law, which was violently opposed by a large majority of the Lords. It is now understood that the Constitution furnishes to the House of Commons enough power to enable them to pass any bill they please, no matter how violently the Lords may oppose the measure. It may be asked what would be done if the Lords should continue to refuse assent to a bill passed by the Commons. Ordinarily all that is necessary is to hold a few indignation meetings, utter a few vague threats about reforming or abolishing the House of Lords, and they yield the point, and pass whatever law the Commons persist in demanding. At one time the Crown was induced to make new lords in order to carry a law. The Lords for a long time absolutely refused their assent to the Great Reform Bill of 1832. Finally, the king gave to the Prime Minister a written pledge, that, in case the Lords would not yield, he would make enough new lords to pass the bill. The Lords yielded, and the new Lords were not made.

House of Commons and People Supreme. — It is coming more and more to be understood in England that the House of Commons can do anything it pleases. The franchise has been extended, until now the great body of Englishmen have a right to vote. The people

determine who shall be members of the House of Commons. Every right, power, or privilege of the Crown, the Lords, or the Church which is disagreeable to the English people will be abolished. The notion that there is a power in the word CONSTITUTION, which can be conjured up to save the powers and privileges of the few, as against the wishes of the many, will more and more lose its force; and the English Constitution will be simply the government which the people of England shall choose to establish and maintain.

CHAPTER XXVIII.

THE ORIGIN OF WRITTEN CONSTITUTIONS.

WE have seen, in a previous chapter, that law making, as a distinct and separate work, came comparatively late in the history of government. If this is true of law making, much more is it true of constitution making. In the whole history of England, constitution making, in this sense, is almost unknown.

In the preceding chapter we have seen that the way in which the English introduce novelties into their Constitution, is by violating what they are pleased to call their Constitution. It was not until Englishmen settled in America that constitution making came to be recognized as a separate work. Yet there were some things in the previous history of the English which prepared the way for this work.

The Charter of London and Other Towns.—William the Conqueror addressed to the Port-Reeve and burghers of London, French and English, the follow-

ing: "I do you to wit that I will that ye twain [English and French] be worthy of all that ye were worthy of in King Eadward's day; and I will that every child be his father's heir, after his father's day; and I will not endure that any man offer any wrong to you. God keep you." This would seem a pretty lean constitution for a town, yet it is the beginning of that remarkable series of documents, known in history as the charters of English towns.

Other kings followed the example of William, and granted charters to towns and cities. Great lords granted charters to towns on their own estates. These charters in the first instance were simply brief documents securing to the town some special right or privilege, after the manner of the first London charter. They confirmed the enjoyment of former rights. As the towns grew in population and wealth, their charters grew. As they paid more money to king or lord, they insisted on more and more security and privilege. In course of time many of these charters came to have many of the characteristics of a complete written constitution.

Great Charters in England. — By written documents the towns secured their rights; to written documents large classes in England came to look for a like security. When Henry I. was crowned in 1100 he gave a charter securing rights and privileges to various classes. Magna Charta was a grand summing up of all the cherished rights of Englishmen. In the seventeenth century three other notable documents were formulated by the House of Commons, and received the sanction of the Lords and the signature of the king.

These were the **Petition of Right**, the Habeas Corpus Act, and the Bill of Rights. All these charters and laws had for their chief object the restriction of the power of kings and lords and the maintenance of the rights of the people.

Colonial Charters.—These charters were dear to the hearts of Englishmen. When the government wished to have the wilderness subdued and held for England, against rival nations and cruel enemies, one of the means employed by English kings was the granting of charters of liberty to the settlers in the New World. Some of these charters of liberty given to English colonies in America, were afterwards used as written constitutions for free states.

CHAPTER XXIX.

THE ORIGIN OF OUR STATE CONSTITUTIONS.

EACH of the thirteen English colonies in America has its own peculiar history. There was in each at some time, however, a charter or commission which gave, or professed to give, some sort of a frame of government for the colony. It is true that many English settlers organized governments for themselves on their own authority. And in the case of those who organized governments according to a charter, their habits as Englishmen had much more to do with the form of their governments than did the written directions from the king. The real constitution of the colonies, like the constitution of the rest of England, was chiefly

unwritten. Yet the written charters had much influence over some of the colonies.

The Grand Model. — One of the first documents to receive the name of constitution in America was the famous GRAND MODEL prepared by John Locke in 1669. This was called "The Fundamental Constitutions of Carolina." It was certainly an elaborate paper constitution. The Englishmen who were expected to live according to its provisions paid little attention to it. They went right on, making constitutions after the manner of their ancestors, by forming such habits of government as their circumstances seemed to require.

Virginia had three charters during the first few years of its history, and then continued without any written constitution until the Revolutionary War.

The Charter of Connecticut. — The people of Connecticut for the first thirty years were without any charter. Then they secured a charter from Charles II., giving to them, in the most express terms, the right of self-government, and containing a constitution or form of procedure. This was a cherished document. The colonists clung to it with desperation. When the Revolutionary War broke out, the legislature of Connecticut put forth this declaration: "The people of this state being, by the providence of God, free and independent, having the sole and exclusive right of governing themselves as a free, sovereign, and independent state; and having from their ancestors derived a free and excellent constitution of government, whereby the legislature depends on the free and annual election of the people, they have the best security for the preservation of their civil and religious rights and liberties."

Then follows an act adopting the charter given by Charles II. as "the civil constitution of this state, under the sole authority of the people thereof, independent of any king or prince whatever." This act remained in force till 1818, when by a small majority the people displaced the old constitution by a new one.

Rhode Island. — The colony of Rhode Island likewise had a liberal charter given by the same king. At the time of the Revolution they do not appear even to have taken the trouble to adopt their old charter as their state constitution, but went right on using it as the constitution of their state until 1842. When the attempt was made to dispense with the charter and adopt a new constitution, it created such a turmoil that it was necessary to invoke the aid of the federal government to preserve order till the state adopted its modern organic law.

The State Constitutions. — With the exception of Rhode Island and Connecticut each of the thirteen states framed and adopted a state constitution. In nearly all cases this was done by a convention of delegates chosen for the purpose. The constitution when framed was commonly adopted by the convention and was carried into effect by its order. Sometimes, however, it was submitted to the people for ratification.

These constitutions renounce the authority of the king of England; and set forth the doctrine that all government of right belongs to the people; some of them state that government is a social compact "by which the whole people covenants with each citizen, and each citizen with the whole people." In these documents may be found a statement of all the rights ever

claimed by Englishmen. The bill of rights is, in some cases, presented as something separate from the constitution. The convention of New Jersey "agreed upon a set of charter rights and the form of a constitution in the manner following," etc. North Carolina presents first a long bill of rights, and then, under a separate title, "The Constitution, or Form of Government, &c."

These constitutions refer to the people as the source of authority. In some cases they record that the framers are acting in accordance with the recommendation of the Continental Congress. New Jersey alludes to the Congress as "the supreme council of the American colonies." New York quotes entire the act of the Continental Congress recommending the colonies to form governments of their own, and also the whole Declaration of Independence.

The Three Departments of Government. — In all these constitutions provision is made for the three departments of government, — Legislative, Executive, and Judicial. In all except Pennsylvania the legislature had two houses. In some cases the chief executive officer is chosen by the legislature. Maryland put into the bill of rights the doctrine "that the legislative, executive, and judicial powers of government ought to be forever separate and distinct from each other." And then, in the body of the constitution, the House of Delegates is empowered to "commit any person, for any crime, to the public jail, there to remain till he be discharged by due course of law"; and there are other provisions conferring judicial power on the legislature. The doctrine of the three distinct departments of government is most explicitly stated in the constitution of Virginia.

The First State Constitutions Models for Later Ones. — These state constitutions, framed by the people of the thirteen original states when the Revolution threw them upon their own resources, have served as models for the federal Constitution, and for all the other state constitutions which have been made since. New states have been formed by the division of other states, and out of territory which never was connected with any state. Vermont, Kentucky, Tennessee, Alabama, and Mississippi were made from the territory of older states. Maine was taken from Massachusetts, and West Virginia from Virginia. The greater part of the other states have been organized out of United States territory. Texas was annexed to the United States with a constitution already formed.

The Making of a New State. — The ordinary process by which a state comes into existence is as follows. Citizens of the United States, entering unoccupied territory, make for themselves such government as they can. When sufficiently numerous, they are supplied with a territorial government by act of Congress. As the population increases, and a desire arises for a state government, Congress passes what is called "an enabling act." In pursuance of this act the people of the territory agree upon a state constitution, and, if it is approved by Congress, the territory becomes a state. In some instances, however, the people in the territory of a proposed state have adopted a constitution, and have been admitted by Congress without an enabling act.

CHAPTER XXX.

THE ORIGIN OF THE FEDERAL CONSTITUTION.

The Union of New England Colonies. — A notable attempt to form a confederation among English colonies in America occurred in 1643, between the colonies of Massachusetts, Plymouth, Connecticut, and New Haven. Representatives from these colonies met and drew up a constitution, providing for mutual protection and the distribution of burdens, for the return to each colony of escaped criminals and servants, and for various other matters of common interest. Two commissioners were chosen from each colony to exercise the powers granted by the constitution. But the constitution provided that the colonies should "each of them, in all respects, have peculiar jurisdiction and government within their limits respectively." It seems to have been difficult, in practice, to maintain a general government which could act efficiently, and at the same time have each local government in all respects independent.

The Albany Convention. — The next attempt to form a federal constitution in America was occasioned by fear of the French and Indians, at the outbreak of the French and Indian War, in 1754. A convention met in Albany, and adopted an elaborate constitution, drawn up by Franklin, which, however, was rejected by the English government and by the colonies.

Colonial Congresses. — The wars between the English and the French had habituated the colonies to united

action in war. The attempt of the English government to violate their constitutional rights, by taxing them without their consent, soon taught them to consult and act together in matters of civil government. In the Congress of 1765 the representatives from the colonies gave united expression to their views. In the ten years following, the colonists were agitating for their rights under the English Constitution. They agreed upon plans of opposition to British tyranny, and carried them into effect by voluntary associations and by the force of public opinion. A congress met in 1774, and gave full expression to colonial sentiment, and before adjourning recommended another congress on the tenth of May, 1775.

The Continental Congress. — This body of representatives, coming together soon after the battle of Lexington, assumed the name of Continental Congress for the United Colonies of America, and began at once to act as a government. They voted to raise armies, appoint generals, issue paper money, and did whatever the exigencies of the time seemed to demand. In the following year the Congress passed the Declaration of Independence.

There was no written federal constitution. As we have seen, the two earlier constitutions had failed, one of them never having been fully adopted, and the other not having accomplished the purposes intended. Out of the Continental Congress there might have been developed an efficient federal government without any written constitution. But written constitutions were the order of the day. Each state was engaged in forming and administering a constitution for itself. It was

but natural, therefore, that there should be an attempt to form a written federal constitution.

The Articles of Confederation. — The Articles of Confederation were adopted by Congress in 1778, but were not ratified until near the close of the war. This constitution proved to be unsatisfactory. It left the states sovereign, free, and independent. No adequate provision was made for the enforcement of federal laws. There was a federal debt, and no means of payment. There were disputes between the states which threatened civil war. Each state had a separate system of duties and imposts which led to great confusion in commerce. The paper money issued by Congress had wrought such injustice as to madden multitudes to the point of rebellion. The statesmen of the period desired to hold office in the state legislature rather than in the Continental Congress. The confederacy was on the point of dissolution when a movement was begun to amend the constitution.

The Constitution of the United States. — The men who met in Philadelphia in 1787 to amend the Articles of Confederation had already had several years of experience in making, amending, and administering the written constitutions of their respective states. The document which was the result of their deliberations was, in many of its features, modelled after the state constitutions. There were the three departments of government; there were two houses in the legislature, the upper house chosen in a different way from the lower house; the Chief Executive chosen by special electors chosen for the purpose; the judiciary chosen by the Executive and confirmed by the Senate. All

these and many other features of the federal Constitution were to be found in one or another of the state constitutions. In large part, the making of the United States Constitution consisted simply in a judicious selection from existing state constitutions.

The Relation of a State to the Federal Government. — One great difficulty encountered by the framers of the new constitution was the adjustment of power between the states and the federal government. Some thought it necessary to destroy all independent state power, to wipe out state lines, and make one homogeneous government. According to the view of these men, the state governments should be made subject, in all respects, to the general government; the states should hold the same relation to the general government that a county holds to a state. There were others who held that all real power should rest with the states; that the states should remain sovereign and independent; that no power should be exercised by a general government, except such as each state at the time approved.

Compromise. — A compromise was effected between these extreme views. In the new constitution certain powers were expressly conferred upon the federal government, and certain others were expressly forbidden to it. Certain powers were likewise forbidden to the states; and a clause was engrafted into the new constitution which declared that the Constitution, the laws, and the treaties made in pursuance thereof, shall be the supreme law of the land; and that the judges in every state shall be bound thereby. There is also a clause requiring all executive and judicial officers in the several states to be bound by oath to support the Constitution

of the United States. An amendment to the Constitution declares that powers not delegated to the United States are reserved to the states respectively, or to the people.

All the states were finally induced to ratify the new constitution. Quite as much credit is due to the firm hands which took up the reins of administration, and actually organized the new government, as to those who made the paper constitution. In such hands a much poorer constitution might nevertheless have been so administered as to give a good government. In unskilful hands a much better constitution might have utterly failed. Our new constitution was not really made until Washington, Hamilton, Jefferson, and their associates had given us an actual government in accordance with their understanding of its provisions.

CHAPTER XXXI.

OUR PRESENT CONSTITUTION.

Frame of Government for Local Municipalities. — In the first constitution for the state of West Virginia extensive provisions were made for the organization and government of townships and counties. In some of the other state constitutions are similar provisions; but for the most part the frame of government for townships and counties is made by the legislature of the state. The legislature also commonly provides for the organization and government of the school districts.

Many of our cities have a special charter or constitu-

tion of their own. These charters are sometimes framed by the people of the city, but they must be approved by the state legislature. If the citizens of a city wish to amend their constitution, they must obtain permission of the legislature. Cities without charters are governed in accordance with provisions in the state laws. The statutes divide towns and cities into classes, and adopt a form of government suited to each class. It thus appears that the frame of government for towns and cities, like that for school districts, townships, or counties, comes from the state legislature. But the government of a city is more important than the other local governments within the state. Its constitution confers upon it so many powers that it has many of the characteristics of an independent government. There is a city legislature, a city executive, and a city judiciary.

Provisions of State Constitutions. — In a previous chapter a brief account is given of the origin of our state constitutions. They proceed directly from the people. There are special peculiarities in each, yet their leading characteristics are alike. In each the citizens who have a right to vote and take part in the government are pointed out; there is a legislature to be chosen by popular vote for short terms; it is prohibited from doing certain things; the necessary state officers are named, some of their duties defined, and provision is made for their selection. These are the essential parts of the state constitution.

The Object of a Constitution. — The true object of a constitution is to furnish such a frame of government as will enable the various governmental agencies to work together harmoniously. Within the state all power

rests ultimately with the people. The people adopt a written constitution, and thereby establish a general government for the state. The legislature of this general government completes the organization, by adopting a frame of government for the various municipalities within the state. These are all subject to the legislature acting under the limitations of the state constitution.

The Meaning of the Word "Government." — The word "government" has been used in this book freely, just as in common speech, with some latitude of signification. Strictly speaking, we do not live under a half-dozen governments of real authority. Within the state there is one real government of authority, which is the government of the people acting under the state constitution. Whether this government reaches the individual through the school district, the township, the county, the city, or through state officers, it is nevertheless the one state government; and all these agencies, which, for the sake of convenience, we have called governments, are simply agencies of the one authority.

These various agencies of the state government are kept in harmonious action by the rulings of courts.

The City Constitutions. — Although important powers are conferred by the constitution upon cities, and it is necessary to good government that this should be so, yet if a city should exercise some power not expressly conferred, and some person should in consequence be liable to injury, he could carry a case into the courts, and the courts would rule that such an action was unconstitutional and therefore void. Some cities are authorized to issue bonds to secure funds for a water supply. If a city not having received such

powers should do this, the act would be held to be void. The local agencies of the state government can do only what they are permitted to do by the constitution or laws. If a doubt arises as to the extent of their powers, the supreme court of the state settles the doubt. From these statements it is evident that there is in the state but one government of authority.

Confusion of Authority.—If our government ended with the state, it would then be clear that we owe allegiance to but one government; we are under but one authority. But the history of the origin of our Constitution shows that the sovereign people, when weaned from the mother country, began to act in two separate and different ways. They called to their aid a Continental Congress, which took to itself many of the powers of a national government; and, at the same time, each state began to form for itself a government of complete authority. This naturally led to confusion. Washington indicated it when he said: "We are one nation today, and thirteen to-morrow." This confusion did not cease with the adoption of the new constitution.

Federal Constitution compared with a City Constitution.—In some respects the federal Constitution resembles the constitution of a city. It is a government of conferred powers, and it is a government of limited powers. But in other respects the federal Constitution is very different from the constitution of a city, a county, or a school district. These local governmental agencies within the state are strictly limited to their prescribed powers. Cases of doubt are decided by the supreme court of the state, in favor of the authority of the state and against the local authority. If these little

governments had courts of their own, endowed with power to interpret their own constitutions, the case would be changed. The uniformity of state government would be destroyed; the powers of the local governments would be enlarged; endless confusion would arise, and the authority of the state would be destroyed.

A city government has courts which interpret and apply city laws; but in cases of doubt there is an appeal to the supreme court of the state. The federal government is provided by the Constitution with a complete system of courts, which interpret and apply federal laws, and there is no appeal from them. The Supreme Court of the United States gives final decision in all questions of doubt concerning the interpretation of the Constitution. If the separate states were permitted to interpret the federal Constitution, there would be as many competing authorities as there are states. Confusion would arise, and the federal government would be destroyed.

The Importance of Courts.—From these statements it will be seen that the courts are of great importance to the harmonious action of our governmental agencies. Harmonious action within the state is secured by the decisions of the supreme court of the state. Harmonious action in the federal government is secured by the decisions of the Supreme Court of the United States. Harmony between the states and the federal government is secured by obedience to the decisions of the Supreme Court. Whatever Congress, the federal executive, and the federal courts unite in doing, whatever exercise of power these decide to be constitutional, the Constitution

of the United States requires us to accept and obey. The states are at liberty to do anything and to exercise any governmental authority not in conflict with the federal government.

Under how many governments, then, do we live, and to how many do we owe allegiance? In all questions of authority between the state government and the school district, the township, the county, or the city, we yield to the authority of the state. Any other course would lead to anarchy. In case of conflict between the states and the federal government, we yield to the federal government; not to do this leads to anarchy. If we believe that the school district is right, and the state wrong, we have the right of petition, the right of free discussion, the right to choose officers, or to influence those who do; and by one or another of these ways the wrong may be righted. If the state is right and the federal government wrong, a number of ways are open to us for the correction of the wrong. We owe supreme allegiance, then, to one government; and, in an important sense, we have but one government and one constitution. By an accident of history, our Constitution was touched by the sovereign people at two points, and they have ordained that a part of the work of government shall be done under the name and authority of the nation, and that the other part shall be done under the name and authority of the several states.

CHAPTER XXXII.

INCREASE OF FEDERAL POWER.

Our Real Constitution not Wholly Written. — One may be familiar with the text of the federal Constitution, and that of the various state constitutions, and still be grossly ignorant of the real constitution of our government. Our real constitution is found in the interpretations which the courts have given to the written documents and the actual institutions which have been established under them. To know what the federal Constitution is we must therefore look beyond the text, and ask what the federal government has done. The President, Congress, and the federal courts have all been inclined in practice to give to the written document a liberal interpretation.

United States Banks. — The word "bank" is not in the Constitution; has, then, the government power to establish a bank? At first this power was denied by those who favored retaining the banking business entirely in the hands of the states. Now no one denies to the federal government full power to establish and maintain banks of issue. Those who oppose national banks, no longer make the plea that the act is unconstitutional, but claim that it is not good policy.

Acquisition of Territory. — No mention is made in the Constitution of any power to acquire territory. Jefferson, who held to the theory of strict construction, maintained that there was no such power. Yet when the opportunity arose during his presidency for

the acquisition of the Louisiana Purchase, he secured it. He recommended, however, that the Constitution be so amended as to grant this power. No one now thinks the amendment necessary. The government secures the territory that the people want, and no one questions the power.

Internal Improvements, Tariffs, Telegraphs, and Railroads. — There is no mention of internal improvements, the granting of money for railroads and canals, the improvement of rivers and harbors. Measures of this sort were formerly opposed on constitutional grounds; now they are discussed purely on grounds of policy. There was once a fierce, political contest over the constitutionality of a high protective tariff. South Carolina pronounced the law unconstitutional, and therefore null and void, and threatened to dissolve the Union in case the federal government insisted upon enforcing the law. Now, though there are multitudes who oppose a high protective tariff because they think it injurious to the country, none oppose it on the ground of its unconstitutionality.

Our written Constitution says nothing of the electric telegraph. Yet the proposition to have the federal government take entire charge of the telegraphic business of the country has been seriously discussed. It is almost certain that the Supreme Court would hold that the federal government has power to connect a telegraphic system with the postal service. It is not likely that any constitutional barriers would be found in the way of its taking any amount of control over telegraphs, telephones, and railroads. No one who observes closely, can fail to see that there is a strong tendency in the direction of increased federal power.

Summary. — The English have no definite written constitution. There are a few important documents, or laws, to which the people have looked as guarantees of their liberties; but the English constitution rests chiefly upon usages and customs. To change the usage, changes the constitution. Nearly all power in the English government has finally come to centre in the House of Commons, and the House of Commons acts under the guidance of the Prime Minister and his associates in the cabinet. English colonies in America acted in some cases under the authority of written charters from England. Two of these charters were especially liberal in their provisions, and when the colonies became states they were used as state constitutions. The people of the other states, when severed from England, adopted written constitutions. According to the terms of the first state constitutions, they assumed nearly all the powers of independent nations. At the same time the states had sent delegates to a constitutional Congress, which also assumed and exercised some of the powers of a nation. The first written constitution for the general government left the states in possession of "sovereignty, freedom, and independence," and every power not expressly conferred upon the United States. This proved to be wholly ineffective and unsatisfactory, and another constitution was framed for the United States, giving a larger grant of powers, providing efficient agencies for the exercise of the powers granted, and requiring the officers of the states to recognize the constitution and laws of the United States as the supreme law of the land. The states, however, were still left in the possession of all

powers not in conflict with the federal government. The terms of the Constitution of the United States have been liberally construed by the courts so as to give the general government a wider range of powers than would be given by a strict literal construction.

Suggestions. — I have before me a pamphlet containing an "Act of Incorporation of the Public Schools of the City of Adrian," of which the first words are, "The people of the State of Michigan enact"; then follow nine sections, in which are set forth the boundaries of the district, the officers of the district, and their powers and duties. The pamphlet also contains a body of "by-laws and regulations" adopted by the school board in pursuance of the powers granted. Altogether, it presents a complete miniature government. Teachers in this school would naturally make this pamphlet a starting-point in a lesson on the Constitution. A city charter may serve a like purpose, or the portion of the statutes of the state which provides for the organization of local governments. Give an account of the organization of a literary society, or some voluntary organization. Read over its constitution and by-laws. Who made the constitution of the society? Who made the frame of government for the school district (town, township, city)? *Answer.* The state legislature, or the people acting through the state legislature. Who made the frame of government or constitution for the state? A copy of the state constitution should be in the hands of every pupil. How was the state constitution made in the first place? How may the state constitution be amended? Make a careful study and recitation of the state constitution. Read over the Articles of Confed-

eration, and make note of such points as are of interest. Who framed the Articles of Confederation? How many states were required to ratify before the Articles should go into effect? What were some of the defects of the Articles? Are there suggestions of an executive department? Are there suggestions of a judiciary? What provision was made for settling disputes between states?

Who framed the Constitution of the United States? How many states were required to ratify before it should go into effect? Study the text of the Constitution, using such outlines and analyses as grow naturally out of a direct study of the document. If the state constitution has been learned, a large part of the federal Constitution is mastered by a simple process of comparison. Experience has shown that the greater part of the two documents may be mastered more easily than one alone. Compare the qualifications for members of the state legislature with the qualifications for members of Congress. Compare provisions concerning impeachments in the state and in the federal Constitutions, and illustrate with the impeachment of President Johnson. Compare prohibitions upon the legislature in each. Give Article 1, Section 8, in the federal Constitution. Point out other parts of the federal Constitution which require action on the part of Congress. What powers may Congress or the federal government exercise? *Ans.* Any powers conferred upon it by the Constitution of the United States. What powers may the state legislature or the state government exercise? *Ans.* Any power not in conflict with the constitution of the state, or the Consti-

tution, laws, and treaties of the United States. Are there clauses in the state constitution conferring powers upon the legislature? Why are not such clauses necessary? *Ans.* Because the state legislature may do anything not forbidden. Why are clauses conferring power upon Congress necessary? *Ans.* Congress can exercise no power not conferred. Compare in like manner, provisions in the state and federal Constitutions concerning the executive and the judiciary. Select from the federal Constitution all the clauses securing rights to the citizens, and compare with the bill of rights in the state constitution. Point out features in one constitution not found in the other, and give the reasons. Point out all clauses in the federal Constitution relating to negro slavery. Is there any reference to slavery in the state constitution?

CHAPTER XXXIII.

DEPARTMENTS OF GOVERNMENT AND CONSTITUTIONAL CHECKS.

THE separation of governmental work, state and federal, into three departments is so familiar that many think there must be in all governments a class of officers to make the laws, another to execute them, and still another to interpret and apply them to special cases. So a man about to build a house, might employ an architect to draw plans and specifications, and a builder to execute them; and if difficulties arose in their execu-

tion, he might call in an expert to settle them. Yet, as a matter of fact, most houses are not built in this way. The planning, the execution and the adapting of the plan to special cases are all done by the same person. As in the case of house-building, so in Civil Government, it is unusual to place the different branches in the hands of separate agents, whether individuals or assemblies, with no common authority to direct them all.

Union of Legislative and Executive Work in England. — In the English government this has never been done. Quite early in English history a class of officers arose, whose chief duties were judicial. The laws which they interpreted and applied, came from the customs of the people. When the king and his great council began to make laws, they also executed the laws, and were the highest court of appeal. The chief law-making and executive and judicial business centered in the same persons. In all cases, if the king and his council were agreed as to what should be the law, the lower courts had no power to nullify it.

An Early Instance of the Idea of Separation. — When the barons were compelling King John to sign Magna Charta, they feared that so soon as they separated and laid down their arms, the king would administer the government contrary to its provisions; hence, they chose twenty-five barons whose duty it was to compel the king to observe the charter. The king, in the charter itself, agreed to issue orders to the twenty-five barons, and compel them to make war upon him in case he did not, in the capacity of chief executive, observe the laws. Here was the idea, at least, of a division between legislative and executive business.

Of course, such a plan was impracticable. The kings, so long as they held the place of chief executive, could usually force Parliament to pass laws, or could prevent the laws from being carried into effect.

The Revolution. — From the time of Magna Charta to the expulsion of James II. in 1688, the kings of England held the chief position in executive matters. They selected their own ministers and controlled the officers of the government. During the latter part of this period the theory that the Parliament was the true law-making part of the English constitution was earnestly proclaimed. Yet, with the king and his ministry to oppose, it was not possible for Parliament to have its laws executed. At the Revolution the new policy was introduced of selecting the chief executive officers from the majority of the House of Commons.

The English Cabinet, the Law-makers of England. — It will be seen that this does not separate the legislative from the executive work of government, but, on the contrary, it brings them more closely under one control. The chief executive officers are all members of Parliament. They belong to that political party which has a majority in the House of Commons. In an important sense these chief executive officers *are* the law-makers. In secret cabinet meetings they agree upon their policy as rulers, and upon the bills which they will introduce in its support. No bill of importance can gain the attention of Parliament unless sanctioned by the Cabinet. All important measures which they recommend are approved by the Parliament and become laws. If at any time the Cabinet fails to receive the support of the Commons, the members either dissolve Parliament or resign their

executive offices, and another Cabinet is formed whose measures will be approved. The members of the Cabinet are thus at the same time the chief law-makers and the chief executors of the English laws.

Democracy in England. — The Revolution of 1688 brought into closer union the executive and the legislature. The king continued, in form, to choose the Cabinet, but he was obliged to select such persons as the majority of the house approved. In this way the House of Commons really determined who should be in the Cabinet. The king was also left in possession of the power to appoint to office in the civil and military service. A vast patronage was in his hands. By means of this patronage the king greatly influenced and sometimes controlled the action of Parliament. Comparatively few citizens had a right to vote, and a king could persuade the few electors in some precincts to return members devoted to himself. Reforms have now been adopted by Parliament which have greatly limited the power and influence of the Crown. First, the franchise has been extended, so that it is nearly universal, thus rendering it more difficult to influence the election; secondly, the civil service has been reformed, and persons are admitted to it on competitive examinations, thus removing almost entirely the patronage of the Crown. By these great changes England has become, in reality, a democracy. The people choose members of the House of Commons, and the Commons rule. Yet the change from monarchy to democracy has centralized the power more and more. So long as the Crown had power and influence, the Commons felt its competition; now there is no competition.

The Prime Minister. — In a recent session of the House of Commons, an Irish member, speaking of the future government of Ireland, made an allusion to the supposed views of another member, whereupon that member responded with three nods, which sent a tremor throughout the world. The man who bowed was Mr. Gladstone, the Prime Minister. Millions of men had been in anxiety to learn what he had been planning for the future government of Ireland. His response to the Irish member gave a flash of light on that question. What the Prime Minister thinks is likely to be the thought of those whom he chooses to act with him in the Cabinet; what the Cabinet proposes is likely to receive a vote of the majority of the Commons; and what the Commons vote will be carried into effect. The destinies of the empire are centered in one man. The Prime Minister obtains his place by becoming, first, the recognized leader of a political party. When that party has a majority in the Commons, the Queen must appoint him to the chief place in the executive. The Prime Minister selects his own associates in the Cabinet; and, by the complete union of the Cabinet and the law-making power, he has centered in himself all the powers of government.

The Three Departments and Written Constitutions. — Governments in America have been formed without a king; they have been shaped by discussions, by mutual agreements and compromises. Power has never been centralized as in England. The framers of our Constitution were afraid to trust all power to one officer or to one body of officers. They committed legislative business to one body, executive business to another,

and judicial business to a third. The written Constitution renders it possible to keep these three departments in a measure separate. The Constitution defines the three departments, and makes it the duty of the courts to interpret and apply its own provisions. Our Supreme Court may restrain the legislative and the executive. In England, the courts have no such power. A court in England may not declare a law of Parliament unconstitutional.

Constitutional Checks. — In the English government, the only check upon the action of the House of Commons is a dissolution of Parliament and an appeal to the voters to choose members of a different mind. Whatever the majority of a newly elected House of Commons determines upon, may be forced through the House of Lords, and the Queen must accept it. In the United States each house of Congress has power to reject the measures of the other. After a measure has received the approval of a majority in each house, the President may prevent its becoming a law by his veto; but even after a measure has become a law, the courts may hold that it is unconstitutional, and therefore void. The Constitution may be amended; but to do this requires a vote of two-thirds of each house of Congress, and the approval of three-fourths of the state legislatures. Power in the federal government is thus divided and hedged about.

The States. — Much of the governing power in matters of vital concern to the people is reserved to the separate states. In each state there is a system of checks upon the exercise of power, similar to that in the federal government. Each state is also indepen-

dent of every other state, and of the federal government, in the exercise of its constitutional powers. A state, therefore, may conduct an experiment without disturbing the whole nation. An experimental measure which has proved successful in one state, may be adopted by others, while one which fails serves as a warning. If a state should be brought to utter ruin by an ill-advised measure, the disaster would be local, and the federal government would be at hand to assist in restoring order. These divisions of power in the American Constitution, and the many checks upon the exercise of power, do not prevent any course of action upon which the people are finally agreed; but they do prevent hasty and ill-considered action. The policy of maintaining these checks is popular. The people by establishing and maintaining them, confess that a majority may for a time be unwise; that it takes time to discover what is safe and good in the difficult work of governing; that it is safer to have many points at which a governmental measure may be stopped and reconsidered. In this respect the government of England presents a marked contrast. The only real check upon the action of the Cabinet and the majority in the House of Commons is a dissolution of Parliament, or an appeal to the voters. When the Queen dissolves Parliament, an election of new members occurs in a short time. The voters may thus be called upon to decide instantly questions of the greatest importance, and the newly elected House of Commons, coming fresh from the people, may do anything it pleases.

CHAPTER XXXIV.

POLITICAL PARTIES.

Parties Necessary to Free Government. — A monarchy is the simplest form of government. Where one man is the source of law, authority, and order, there is no real necessity for political parties. The monarch and those selected by him decide all questions, and the people have no pains or trouble in the case. Or if the people do take an interest in what is done, they may organize and maintain a half-dozen political parties or societies for the purpose of influencing his action. If the people are not to decide what shall be done, there is no necessity for majorities. But if the people are required to decide questions, there is need of majorities. If the voters of a school district have to locate a schoolhouse, there may be a real difficulty to overcome. There may be twenty-five voters, divided into groups of five each; and each group may prefer to have the house in a different place. If every voter should hold to his own view, and refuse to give up his preference, popular selection would be impossible. The friends of each location form a party, and try to induce at least eight other voters to unite with them. The need is felt of coming to an agreement. Some must give up their preferences that a majority may be obtained, and the house may be located by popular vote.

In almost any county there are three or four places where groups of voters would prefer to locate the county seat. Popular government is not possible unless multi-

tudes are willing to sacrifice individual preferences, and unite with one or another of the groups which are competing for a majority.

Permanent Organizations. — In these local governments it is entirely possible for the voters to divide upon particular issues, and to decide questions by an actual popular vote. Here parties can form and disband with little trouble. But it is not an easy matter to form parties for the purpose of deciding questions in a great state or a great nation. It is not ordinarily possible to call into existence national parties upon a single issue; and when national parties are organized, it is not easy to disband them. No method has been invented by which it is possible to decide ordinary national questions by direct vote of the people. The best that has been done is to give the voters a choice between two groups of men who promise to do certain things.

If there are two political parties almost equal in numerical strength, and actual political issues are under discussion, and one party represents one view and the other party the opposite view, then it becomes possible for the voters to exert an influence in deciding the questions at issue. They put into office the party which promises to do the things desired. If the party fails to do the things promised, the utmost that can be done is to wait till the next election, and turn it out of office. And this can only be done by putting the offices into the possession of the opposite political party. The people are reduced by the necessities of their position to a choice between two political parties.

Party Organization. — In previous chapters much has been said about governmental agencies or institu-

tions. The national parties are the agencies which render it possible for millions of people to choose their rulers and express themselves on national questions. They are thoroughly organized. Each party has a national committee, a committee in each state, one in each county, and often one in each township. They hold their caucuses, primaries, and conventions; select candidates for office; formulate political doctrines; hold meetings, persuade voters, and in various ways strive to secure a majority of the votes.

Two Parties Only. — It is desirable that the parties be only two in number. They are artificial agencies for obtaining majorities; and if there are more than two of them, this becomes more difficult. A third party may be organized for the purpose of advocating certain opinions, and of influencing the regular parties to adopt those opinions; but so soon as one of the parties may be induced to adopt the opinions of the third party, the latter should disband. If a third party attempts to keep up a separate organization after it loses its distinctive principles, it becomes a source of confusion and corruption to the voters.

The Third Party. — A third party may be organized for the purpose of displacing one of the old parties. Such a plan is almost sure to fail. We have in our history one notable instance: the Republican party displaced the Whig party. But the circumstances were peculiar. It would be a great waste of political energy to disband all the counties of a state, and then organize new counties in their place. It is likewise a waste of political energy to disband an old party and organize a new party to take its place. There must

be peculiar circumstances to justify such a waste. It is not an easy task to make fifty millions of people acquainted with a new organization. What the people need is to learn how to use political parties in such a way as to secure good government. It is better that the party machinery be familiar. It is more likely to be familiar if it is old. Many close observers are of the opinion that the task of restoring healthy political and party life to the South after the Civil War was made much more difficult because of the disbanding of the old Whig party. Had the old organization remained there would have been, after the stress of war was over, a stronger tendency to divide on the old lines, and to introduce at once that state of political life which has only been reached through a generation of suffering.

Parties in State and Federal Governments. — The larger and more extensive the government, the greater the necessity for political parties. In our government the great parties are formed on national questions. The same parties are used in state politics; but this is only incidental. The life of the party comes from national issues. If at any time an important issue arises in a particular state, it creates a tendency to form distinct state parties; but national politics are ordinarily so imposing as to render this impossible. The ordinary citizen does not know how to belong to two political parties at the same time. He adheres to his party on all questions, from the election of a road master to the choosing of the President of the United States.

Many voters are confused by the use of the same organizations in both state and national politics. Their

convictions would often lead many to vote with one party on state issues, and with the opposite party on national issues. A few do this, but to the average voter such action seems inconsistent. The national organizations take on a local coloring according to the convictions of those who are most influential in the particular state. It sometimes happens that in different sections the same political party represents opposite views on the same question. In Iowa the Republican party has been used to secure prohibitory legislation. In the state of Georgia the Republican party has been used to oppose advanced temperance legislation, and the Democratic party is the party of prohibition.

State Issues. — On account of confusion in the use of political parties it sometimes happens that there is a waste of political energy by an attempt to organize a national party to accomplish a work which can only be done by the state governments. Voters interested in any question which requires state action should persuade other voters to adopt their views, and thus hold out inducements to the existing political parties to adopt them. It may sometimes be good policy to nominate a ticket in order to make a showing of strength. But it should always be understood that so soon as one of the regular parties will give the thing desired, the little local party will gracefully die. To continue such an organization longer breeds confusion and corruption.

Summary. — In a monarchy government may be conducted without political parties, but in a republic, or under a government by majorities, political parties are necessary. In a small government, as a town or school district, majorities may be secured by a division upon

each issue as it arises without the aid of permanent party organizations; but in the larger governments of the states and the United States, parties become necessary to enable the voters to choose their rulers and express their views upon the policy of the government. In a large republic, voters, in order to have any effect upon the government, have to choose between two political parties. Voters may form a society for the work of advocating particular opinions, and may strive to persuade one or the other of the political parties to adopt them; or a third political party may be formed and maintained with the intention of ultimately uniting with or displacing one or the other of the regular parties. Yet all are finally reduced to the necessity of using the two parties as the citizen's agency for affecting the government.

Suggestions. — Give examples of the settlement of questions by a direct vote of the citizens. Are local officers chosen from the political party in the majority? What is meant by "keeping a question out of politics"? Name some of the issues which have affected the elections in the county or in the state. What act of the state legislature affects the government of the United States? Does this fact influence the voters in selecting members of the legislature? Give an account of a national convention for nominating candidates for President and Vice-President. Describe the party organizations. What is a caucus? What is a primary? Illustrate from United States history the formation of parties, their names and issues.

APPENDIX A.

ARTICLES OF CONFEDERATION.

Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

ARTICLE I. — The style of this Confederacy shall be, "The United States of America."

ART. II. — Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

ART. III. — The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ART. IV. — The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugi-

tives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and egress to and from any other State, and shall enjoy therein all the privileges of trade and commerce subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively; provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State to any other State of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction shall be laid by any State on the property of the United States or either of them. If any person guilty of, or charged with, treason, felony, or other high misdemeanor in any State shall flee from justice and be found in any of the United States, he shall, upon demand of the governor or executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offense. Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

ART. V. — For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the Legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year. No State shall be represented in Congress by less than two, nor by more than seven members; and

no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States for which he, or another for his benefit, receives any salary, fees, or emolument of any kind. Each State shall maintain its own delegates in any meeting of the States and while they act as members of the Committee of the States. In determining questions in the United States in Congress assembled, each State shall have one vote. Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonment during the time of their going to and from, and attendance on, Congress, except for treason, felony, or breach of the peace.

ART. VI. — No State, without the consent of the United States, in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state; nor shall the United States, in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States, in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States, in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any State, except such number only as shall be deemed necessary by the United States, in Congress assembled, for the defence of such State or its trade, nor shall any body of forces be kept up by any State in time of peace, except such number only as, in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use in public stores a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war without the consent of the United States, in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States, in Congress assembled, can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States, in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against

which war has been so declared, and under such regulations as shall be established by the United States, in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States, in Congress assembled, shall determine otherwise.

ART. VII. — When land forces are raised by any State for the common defense, all officers of or under the rank of Colonel shall be appointed by the Legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

ART. VIII. — All charges of war, and all other expenses that shall be incurred for the common defense, or general welfare, and allowed by the United States, in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted to, or surveyed for, any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States, in Congress assembled, shall, from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the Legislatures of the several States, within the time agreed upon by the United States, in Congress assembled.

ART. IX. — The United States, in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases

mentioned in the sixth Article; of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatever; of establishing rules for deciding, in all cases, what captures on land and water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts for receiving and determining finally appeals in all cases of captures; provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States, in Congress assembled, shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent of any State in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties

by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case, transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned; provided, that every commissioner, before he sits in judg-

ment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward." Provided, also, that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdictions, as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States, in Congress assembled, shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated; establishing and regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said

office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States, in Congress assembled, shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "A Committee of the States," and to consist of one delegate from each State, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside; provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State, which requisition shall be binding; and thereupon the Legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped shall march

to the place appointed, and within the time agreed on by the United States, in Congress assembled; but if the United States, in Congress assembled, shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the Legislature of such State shall judge that such extra number can not be safely spared out of the same, in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled.

The United States, in Congress assembled, shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine States assent to the same, nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States, in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations as in their judgment require secrecy; and the yeas and nays of the delegates of each State, on any question, shall be entered on the journal when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal except such parts as are above excepted, to lay before the Legislatures of the several States.

ART. X. — The Committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States, in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said Committee, for the exercise of which, by the Articles of Confederation, the voice of nine States in the Congress of the United States assembled is requisite.

ART. XI. — Canada, acceding to this Confederation, and joining in the measures of the United States shall be admitted into, and entitled to all the advantages of this Union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

ART. XII. — All bills of credit emitted, moneys bor-

rowed, and debts contracted by or under the authority of Congress, before the assembling of the United States, in pursuance of the present Confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ART. XIII. — Every State shall abide by the determinations of the United States, in Congress assembled, on all questions which by this Confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State.

AND WHEREAS it hath pleased the great Governor of the world to incline the hearts of the Legislatures we respectively represent in Congress to approve of, and to authorize us to ratify, the said Articles of Confederation and perpetual Union, know ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual Union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States, in Congress assembled, on all

questions which by the said Confederation are submitted to them; and that the Articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual. In witness whereof, we have hereunto set our hands in Congress. Done at Philadelphia, in the State of Pennsylvania, the ninth day of July, in the year of our Lord 1778, and in the third year of the Independence of America.

APPENDIX B.

CONSTITUTION OF THE UNITED STATES OF AMERICA.

PREAMBLE.

WE the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I. LEGISLATIVE DEPARTMENT.

Section I. Congress in General.

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section II. House of Representatives.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

2. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

Section III. Senate.

1. The Senate of the United States shall be composed of two senators from each State, chosen by the Legislature thereof for six years, and each senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their officers, and also a president *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they

shall be on oath or affirmation. When the President of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in case of impeachment shall not extend farther than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

Section IV. Both Houses.

1. The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section V. The Houses Separately.

1. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior,

and, with the concurrence of two-thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither house during the session of Congress shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Section VI. Privileges and Disabilities of Members.

1. The senators and representatives shall receive a compensation for their services, to be ascertained by law and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Section VII. Mode of Passing Laws.

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be

approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section VIII. Powers granted to Congress.

The Congress shall have power:

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States;

5. To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post-offices and post-roads;

8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish felonies committed on the high seas, and offenses against the law of nations;

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the Legislature of the State, in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the

government of the United States, or in any department or office thereof.

Section IX. Powers denied to the United States.

1. The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

3. No bill of attainder, or *ex-post-facto* law, shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

5. No tax or duty shall be laid on articles exported from any State.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Con-

gress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

Section X. Powers denied to the States.

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex-post-facto* law, or law impairing the obligation of contracts; or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war unless actually invaded, or in such imminent danger as will not admit of delays.

ARTICLE II. EXECUTIVE DEPARTMENT.

Section I. President and Vice-President.

1. The executive power shall be vested in a President of the United States of America. He shall hold

his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows: —

2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

3. [The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum

for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.] [1]

4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President; and such officer shall act accordingly, until the disability be removed or a President shall be elected.

7. The President shall, at stated times, receive for

[1] Altered by the XIIth Amendment.

his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation: —

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Section II. Powers of the President.

1. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for and which shall be established by law; but the Congress may by law

vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

Section III. Duties of the President.

He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them; and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section IV. Impeachment of the President.

The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III. JUDICIAL DEPARTMENT.

Section I. United States Courts.

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts

as Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Section II. Jurisdiction of the United States Courts.

1. The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign states, citizens, or subjects.[1]

2. In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in

[1] Altered by XIth Amendment.

the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Section III. Treason.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV. THE STATES AND THE FEDERAL GOVERNMENT.

Section I. State Records.

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section II. Privileges of Citizens, etc.

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice and be

found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Section III. New States and Territories.

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

2. The Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

Section IV. Guarantee to the States.

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the Legislature, or of the executive (when the Legislature cannot be convened), against domestic violence.

Article V. Power of Amendment.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first Article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Article VI. Public Debt, Supremacy of the Constitution, Oath of Office, Religious Test.

1. All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The senators and representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII. RATIFICATION OF THE CONSTITUTION.

The ratifications of the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in Convention, by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the twelfth.

AMENDMENTS TO THE CONSTITUTION.

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in active service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

ARTICLE IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not granted to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

ARTICLE XI.[1]

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII.[2]

1. The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest

[1] Proposed by Congress March 5, 1794, and declared in force January 8, 1798.

[2] Proposed by Congress December 12, 1803, and declared in force September 25, 1804.

numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately by ballot the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of death or other constitutional disability of the President.

2. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII.[1]

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have

[1] Proposed by Congress February 1, 1865, and declared in force December 18, 1865.

been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.[1]

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male members of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole

[1] Proposed by Congress June 16, 1866, and declared in force July 28, 1868.

number of male citizens twenty-one years of age in such State.

3. No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

ARTICLE XV.[1]

1. The right of citizens of the United States to vote shall not be denied or abridged by the United

[1] Proposed by Congress February 26, 1869, and declared in force March 30, 1870.

States or any State on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

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